

## Statement of Intent

# Enforcement of the *Building Act* 1993: A Cooperative Approach

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## Signature page

The Victorian Building Authority (VBA) and the \_\_\_\_\_, commit to this Statement of Intent.

Signed on the ..... day of ..... 2016

[Insert name]  
Chief Executive Officer  
[Insert Council name]

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Prue Digby  
Chief Executive Officer  
Victorian Building Authority

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## 1. Purpose

- 1.1 This Statement of Intent is designed to provide greater clarity in respect of how the Victorian Building Authority (VBA) and Local Government should work together to administer and enforce compliance with the *Building Act 1993* (the Act) and *Building Regulations 2006* (the Regulations).
- 1.2 The key principle of this document is that the regulation of Victoria's building industry is a shared responsibility between the VBA, Local Government and private building surveyors.
- 1.3 Operating effectively, the division of roles and responsibilities in this way creates a regulatory system that has great capacity to be highly efficient, responsive, and flexible. This is the vision for Victoria's building regulatory system that is shared by the VBA and Local Government.
- 1.4 This Statement of Intent supports the realisation of that vision and while it does not include private surveyors as a party, it intersects with their role in the regulatory framework as the obligations imposed by the Act and Regulations on the VBA and Local Government necessarily require engagement with private building surveyors.

## 2. Objective

- 2.1 The objective of this Statement of Intent is to improve the effectiveness of Victoria's building regulatory system and increase confidence in the sector by;
  - recognising and committing to the principle that administering and ensuring compliance with the Act and Regulations is a shared responsibility;
  - encouraging cooperation, information sharing and timely decision making; and,
  - supporting agility, flexibility and accountability within the regulatory framework.

## 3. The Parties

### The Victorian Building Authority

- 3.1 The VBA is a statutory authority established under the Act. The VBA monitors and enforces compliance with the Act and the Regulations and this includes supervision of registered practitioners' conduct.
- 3.2 Amongst other things, the VBA has power to;
  - bring proceedings for any offence against the Act or the Regulations;
  - enter buildings and land (subject to legislative requirements);
  - apply for and execute search warrants;
  - require the production of documents or the giving of information in order to determine compliance with the Act or Regulations;

- act as municipal building surveyor in relation to any matter referred to the Authority by a private building surveyor under Part 8; and,
- direct a municipal building surveyor or private building surveyor to carry out their functions.

### Local Government

- 3.3 Under the Act Local Government must appoint, employ or nominate a Municipal Building Surveyor (MBS). The MBS carries out a number of functions under the Act and is often the first party to which non-compliance with the Act or Regulations is reported from the community.
- 3.4 Local Government are empowered, amongst other things to;
- administer and enforce building permits issued by the MBS;
  - take action in circumstances where building work without a building permit is identified by council;
  - take appropriate action where there is a known risk to health or risk of injury or death;
  - receive copies of building permits, occupancy permits, notices and orders from private building surveyors and maintain a register for these matters within the municipality;
  - provide information as prescribed by the Regulations;
  - enter buildings and land (subject to legislative requirements);
  - apply for and execute search warrants;
  - require the production of documents or the giving of information in order to determine compliance with the Act or Regulations; and,
  - bring proceedings for offences under Part 3, 4, 5, 7 and 8 of the Act.
- 3.5 It is important to note that Local Government in contrast to the VBA, is not empowered to direct a private building surveyor to carry out their functions under the Act. In this sense, Local Government does not monitor the performance of private building surveyors.
- 3.6 However, Local Government is responsible for the administration and enforcement of the Act in respect of all building work within its municipality, except where otherwise expressly provided under the Act. Local Government also holds information that is useful to the VBA for the performance of its role in monitoring private building surveyors, and has capacity to share information with the VBA in respect of private building surveyors where matters have come to the councils' attention.
- 3.7 Therefore, in the course of achieving its obligations under the Act, Local Government will at times engage with private building surveyors and/or consider the performance of their functions. For example, in some instances where a matter about non-compliance has come to

the attention of the council the objectives of the Act and Regulations may best be achieved by the MBS contacting and requesting that the relevant private building surveyor seeks compliance.

## 4. Obligations

- 4.1 In accordance with the relevant provisions of the Act and Regulations the parties agree to;
- I. Commit to the principle that the regulation of Victoria's building sector is a shared responsibility;
  - II. Commit to working together in a spirit of cooperation that ensures that voids of responsibility do not arise;
  - III. Administer and enforce compliance with the Act and Regulations in an efficient and transparent way;
  - IV. Document building complaints and issues and (subject to confidentiality and privacy obligations) share this information with the other party where it is necessary in order to meet the objectives of the Act and Regulations;
  - V. Work together to develop processes and procedures that respond to the fact that information about non-compliance with the Act and Regulations may come to the attention of regulators in a variety of ways;
  - VI. Develop processes and procedures that allow for easy identification of building practitioners who are repeatedly non-compliant and develop strategies for improving and/or ensuring compliance;
  - VII. Engage directly and expeditiously with private building surveyors where the interests of timely regulation require;
  - VIII. Utilise discretion in decision making in accordance with any relevant internal guidelines and in a way that is consistent with achieving the overarching objectives of the Statute;
  - IX. Foster a culture of responsiveness, agility and accountability in respect of complaints handling and investigations; and,
  - X. Continually seek to identify and develop ways of working that will drive more effective regulation of Victoria's building sector.
- 4.2 In addition to these shared commitments, in accordance with the relevant provisions of the Act and Regulations;
- XI. The VBA has oversight of registered builders and building surveyors. This oversight function includes the use of statutory powers to ensure compliance with the Act.
  - XII. Local Government has oversight of all building work and building stock within their municipality. This oversight includes the use of statutory powers to ensure compliance with the Act. This oversight function does not extend to directing private building surveyors.

## **5. Relationship of this Statement of Intent to other documents**

- 5.1 This Statement of Intent is not intended to supersede or alter existing contractual arrangements or other agreements between the VBA and MAV or councils.

## **6. Evaluation and review**

- 6.1 The parties agree to review this Statement of Intent after the first year of operation.