

Responses from municipal councils

This updates the previous *Practice Note 2005-18* issued June 2005.

1. Summary

The building permit process requires a range of property information from municipal councils. It is particularly important that building designers and building surveyors have timely access to this information, in order to be aware of all the relevant controls at the design and checking stages, respectively. Councils are also requested to provide reports and consents in their role as reporting authorities.

Note: For information on the fees and deposit requirements from councils relating to the building permit process, please refer to Practice Note 2006-10 – ‘Fees and Deposits’.

2. Requests for property information

Requests for property information can include those relating to regulation 326, or those relating to section 24(1)(c) of the Building Act 1993 (the Act) (whether or not a planning permit is required). Regulation 326(2) of the Building Regulations 2006 (the Regulations) provides that:

“Any person may request the relevant council to provide in respect of any building or land:

- (c) details as to whether the building or land is in an area:
 - (i) that is liable to flooding within the meaning of regulation 802; or
 - (ii) that is designated under regulation 803 as an area in which buildings are likely to be subject to attack by termites; or
 - (iii) that is a designated bush fire prone area determined under regulation 804; or
 - (iv) that is an area determined under regulation 805 to be likely to be subject to significant snowfalls; or
 - (v) of designated land or works within the meaning of regulation 806.

Many councils have prepared ‘hazard maps’, allowing people to access the information themselves at the council’s office, at no cost. However, should a person request advice in writing about a specific property, then the council can charge a fee of \$40 for all items reported in regulation 326(1), 326 (2), 326 (3) or 326 (4).

If requesting advice from a council on whether a planning permit is required for a particular development — and if so, whether it has been issued — any fees due can be checked with the council planning department.

3. Community Infrastructure Levy

When responding to a request, councils are advised to provide information as to whether an amount of Community Infrastructure Levy is payable under the Planning and Environment Act 1987. The RBS must not issue a building permit (Section 24(5) of the Act) unless any such required levy has been paid, or an agreement to pay the levy has been entered into.

For further information see Practice Note 2006-54 ‘Building Permit and Community Infrastructure Levies’.

4. Council response to application for consent and report

Some requests will require the council to assume its role as a reporting authority. Advice on the location of the point of discharge of storm water drainage from the allotment is a typical example.

Currently, there is no deemed consent to an application if a council does not comply with the time limits set out in schedule 3 as outlined in regulation 307. An applicant for a permit may appeal to the Building Appeals Board against the failure of a reporting authority (which is a council or an officer of a council) to inform the relevant building surveyor or the applicant within the prescribed time, of its consent to the application or its refusal of consent and the reasons for that refusal.

In regards to some referral requirements some requests require council to consult with other authorities. ie: Flooding areas (802), requires council to consult with floodplain management authority. It is not the role of the applicant to consult with these authorities. The consultation process is to be carried out by council during the report and consent process if required.