STEVE WATSON & PARTNERS

BUILDING CODE CONSULTANTS
BUILDING SURVEYORS & CERTIFIERS
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Cladding Rectification Package

INFORMATION SHEET | 2020

July 2019, the State Government announced its intention to address combustible cladding through a program of grants to fund rectification works for high-risk buildings.

The proposed funding arrangements for the grants include the introduction of changes to the building permit levy to raise $300 million (representing half of the $600 million funding announced) over the next five years.

The building levy applies to new permits for multi storey buildings valued at more than $800,000, excluding single dwellings, developments in regional Victoria and schools and hospitals. Other projects such as social housing may also be exempt.

Amendments to the Building Act 1993 in the Building Amendment (Cladding Rectification) Act 2019 will provide for the building permit levy to include an additional cladding levy component. This component is known as the cladding rectification levy.

These amendments commenced on 1st January 2020.

The levy for projects over $1.5 million is substantial at 0.82 cents in every dollar of the cost of the building work for which the permit is required.

When does this start?

It applies to Building Permit applications accepted by building surveyors on or after 1 January 2020. The legislation will not be reviewed until four years after commencement, so the Cladding Rectification Levy is here to stay for at least the next four years.

What buildings does it apply to?

The new levy applies to building work in metropolitan areas with a cost of works of at least $800,000 and a classification of 2 to 8 under the Building Code of Australia (BCA).

The levy does not apply to stand-alone houses or other class 1 buildings.

In summary the cladding rectification levy applies as follows:

- Only applies to Class 2 to 8 buildings as per the Building Code of Australia (BCA)
- Does not apply to buildings located in regional Victoria
- Only applies if the cost of works or cost of whole of building works is $800,000 or more.

Note that the cladding rectification levy is payable in addition to the current building permit levy.

Buildings of Multiple Classifications

The VBA have advised that the Cladding Rectification Levy is calculated on the entire cost of works for buildings of multiple classifications even if they contain a combination of the BCA Class 2 to 8 and also contain other classes that do not attract the new levy, being Class 1, 9 or 10 parts as per extract below:

"If a staged permit is required for works that are solely for a NCC class 2 to 8 building or for a multiple-purpose building that has at least one part that is a NCC class 2 to 8, the additional cladding rectification levy is calculated on the entirety of the building work."

VBA Website

In summary, all projects which contain parts that are a classification of 2 to 8 under the BCA are subject to the cladding rectification levy.

How is the cladding levy calculated?

For applicable buildings with a cost of works (single-stage project) or cost of whole of building works (multiple stages of works) of $800,000 or more, the following rates of cladding rectification levy are payable:

Cost of works / cost of whole of building works	Cladding rectification levy rate
Between $800,000 and $1 million	0.128 cents in the dollar
Between $1 million and $1.5 million	0.256 cents in the dollar
$1.5 million or more	0.82 cents in the dollar

If a staged permit is required for works that are solely for a NCC class 2 to 8 building or for a multiple-purpose building that has at least one part that is a NCC class 2 to 8, the additional cladding rectification levy is calculated on the entirety of the building work.

An online levy calculator is available on the VBA website to provide industry with an estimate of the total building permit levy payable.

VBA Online Levy Calculator

Exemptions

The following exemptions have been announced to date:

- **Social Housing** - An exemption from the cladding rectification levy will be available in relation to certain types of social housing.
- **Class 1, 9 or 10** - No cladding rectification levy is payable if a building is not a multiple-purpose building and that building is only NCC class 1, 9 or 10.
- **Commonwealth Land** - Building works on Commonwealth Crown land retain the current exemption from any building permit levy, including the new cladding rectification levy.
- **Regional Victoria** - cladding rectification levy does not apply for building work within the municipal districts of the municipal councils set out in Schedule 1 of the First Home Owner Grant Act 2000 and the alpine resorts within the meaning of the Alpine Resorts Act 1983.

Note that the cladding rectification levy is payable in addition to the current building permit levy.

Is additional cladding levy payable on the entire cost of works, or only on the part that exceeds the various thresholds?

The VBA have advised that the cladding rectification levy is calculated on the entire cost of works.

From what point in the building permit application process will the cladding rectification levy amendments commence?

The VBA have advised that applications for a building permit that have been "accepted" by an RBS before the commencement date will not be subject to the cladding rectification levy.

An application should be deemed "accepted" when it contains all information needed by an RBS to:

- Apply to the VBA for a building permit number (BPN)
- Estimate the cost of works; and
- Calculate the total levy due (before applying for a BPN)

The VBA considers that an RBS does not "accept" an application for a building permit until all required information has been provided and an estimated cost of works is settled.

Other Amendments to the Act and Regs

The Amendment to the Act also included a number of other changes to legislation, including:

- **RBS to confirm cost of building work** - Building Surveyors must review the contract price for the building work or request sufficient information to estimate the cost of the building work.
- **Reassessment of levy** - The VBA may reassess the cost of building work after a building permit is issued and within five years of completion of work in order to confirm whether the building permit levy paid was accurate.
- **Revised final cost of works** - owners must notify the VBA if the revised final cost of works for a building permit has increased by at least $15,625. The VBA must be informed within 28 days of the applicant becoming aware of the increase.
- **Cladding Safety Victoria** - the cladding rectification levy is funding Cladding Safety Victoria, which was established to provide support and guidance to building owners an occupants of buildings with combustible cladding, particularly where rectification work is required to reduce risks to an acceptable level.

Further Information

Visit the following VBA website pages for more information:

VBA Website	Information from the VBA, what's involved in rectifying buildings, cladding resources and fire safety tips
Cladding Resources	Cladding resources from the VBA.
Cladding FAQs	Cladding FAQs here

Call the **Victorian Building Authority** on **1300 815 127** and follow the prompts.

To find out more information on the legislative changes underpinning the additional levy, view the Building Amendment (Cladding Rectification) Act 2019 on the Victorian Legislation and Parliamentary Documents website.

www.legislation.vic.gov.au

Get in touch

EUAN MORRISON
PRINCIPAL

Level 8, 350 Queen Street
Melbourne Victoria 3000
T: (03) 9380 5552 F: (03) 9380 5558 M: 0419 321 110
emorrison@swpartners.com.au | www.swpartners.com.au | Vcard

Our Team

Our senior management team and every member of our staff pride ourselves in being part of one of Australia's leading certifier and building surveying organisations.

All principals and senior staff are accredited to the highest possible level in their respective states and territories. We are passionate about our work, motivated for our clients and projects and approachable in our day to day business dealings.

We believe our decades of experience can help ensure a successful result for any project.
Please contact us with any questions you may have, we look forward to the opportunity of working with you.

STEVE WATSON
& PARTNERS

BUILDING CODE CONSULTANTS - BUILDING SURVEYORS AND CERTIFIERS

SYDNEY	Level 17, 456 Kent Street, Sydney NSW 2000	Phone: (02) 9283 6555	Fax: (02) 9283 8500
MELBOURNE	Level 8, 350 Queen Street, Melbourne VIC 3000	Phone: (03) 9380 5552	Fax: (03) 9380 5558
BRISBANE	Level 4, 276 Edward Street, Brisbane QLD 4000	Phone: (07) 3088 2333	Fax: (07) 3088 2444
CANBERRA	Level 1, Unit 14, 27 Hopetoun Circuit, Deakin ACT 2600	Phone: (02) 6100 6606	Fax: (02) 6100 6609

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Building Permit Levy – Cladding

Practice Note 73

Purpose

Building permit applicants must pay the building permit levy before their building permit is issued. This practice note provides guidance on building permit levy requirements.

Definitions

The definitions and initialisms set out below are for guidance only. They are not intended to vary those set out in the *Building Act 1993* (the Act) or the *Building Regulations 2018*.

Applicant – a person who lodges a building permit application with an RBS for approval. The applicant can also be the owner or an agent of the owner.

Levy – an amount paid into the Building account or the Cladding Safety Victoria account of the Victorian Building Authority Fund under sections 205A and 205G of the Act as the case requires.

CRL – Cladding rectification levy

RBS – Relevant building surveyor

CoW – Cost of building work (including cost of materials, labour and GST)

BACR – *Building Amendment (Cladding Rectification) Act 2019*

CSV – Cladding Safety Victoria

Regional Victoria – an area of land set out in Schedule 1 of the *First Home Owner Grant Act 2000*, with alpine resorts defined within the meaning of the *Alpine Resorts Act 1983*.

Levy calculation

A levy is payable prior to the issue of every building permit with a CoW greater than $10,000. The levy is calculated at a rate of 0.128 cents in every dollar of the CoW (refer to section 205G of the Act for more information).

In order to fund cladding rectification work by CSV, an additional building permit levy will apply from 1 January 2020.

- All building permit applications in Regional Victoria are exempt.
- Building permit applications for class 1, 9 and 10 buildings in non-regional Victoria are also exempt (as per BACR section 15).

The additional CRL is payable at the rates set out in the following table.

Cost of works	Additional cents in dollar
$800,000 to $1 million	0.128
$1 million to $1.5 million	0.256
$1.5 million and over	0.82

Building surveyors must consider the contract price for proposed building work when determining the levy due. If there is no contract for the work, the RBS must request sufficient information to estimate the CoW (refer to sections 205H and 205I of the Act for more information).

Circumstances where levy may be reimbursed or refunded

Unless otherwise exempted, the building permit levy applies to:

- a new building permit issued after the original permit has lapsed. A replacement permit is (for the purposes of the Act) a totally new and separate building permit;
- a building permit issued for building work that does not normally require such a permit. For example, the owners of certain building work may request a permit for their own peace of mind; and
- a new building permit issued due to a substantial change in the nature and type of building work as provided for in the original permit.

Applications to reimburse the levy

A reimbursement of levy is allowable only in circumstances where the levy was paid prior to the issue of the building permit *and* the application is withdrawn prior to the issue of that permit.

The VBA will not reimburse building permit levy after a building permit is issued if:

- building work does not proceed
- building work is partially completed

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- a building permit lapses; or
- a building permit is cancelled.

From 1 July 2019, reimbursement of levy may be allowed in limited circumstances in the period between the issue of a building permit number and the issue of the building permit to address administrative errors and situations where the RBS does not intend to issue a building permit.

From 1 January 2020, refunds of the cladding rectification levy will be available in limited circumstances as part of the reassessment of levy power (refer to section 205LBA(1)(a) of the Act).

Levy reassessment power

For building permits issued on or after 1 July 2019, owners must notify the VBA if the revised final cost of works for a building permit has increased by at least $15,625. The VBA must be informed within 28 days of the applicant becoming aware of the increase.

Once notified, the VBA will reassess the building permit levy owed and send written notification to the applicant requesting payment of any additional levy and penalty levy. Payment of these levies is due within 14 days of the VBA notifying the applicant.

Want to know more?

If you have any questions about this information, please contact the VBA.

Telephone: 1300 815 127
Email: customerservice@vba.vic.gov.au

Victorian Building Authority
733 Bourke Street, Docklands VIC 3008
www.vba.vic.gov.au

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Building permit for a stage of building work

Practice Note 36

Purpose

This practice note provides advice to building industry professionals in relation to approving an application for stage approval of building work.

Background

A building permit issued for a stage of work is a building permit in its own right and is a type of building permit referred to in section 20(b) of the *Building Act 1993* (the Act).

Section 20 states that a building permit may be—

a) a permit for the whole of the proposed building work; or
b) a permit for a stage of the proposed building work.

Application for a stage of building work

Applicants for a building permit relating to a stage of building work must complete *Form 1: Application for a building permit* (as set out in Schedule 4 to the *Building Regulations 2018*). The application must, amongst other things, identify:

- the nature of the proposed building work
- the extent of that stage of building work
- the total cost of the building work and, if applicable, the cost of building work for that stage (for the purpose of calculating the building permit levy); and
- the building practitioners involved with that stage of building work.

Regulation 27 permits the relevant building surveyor (RBS) to exempt an application for a building permit from any of the requirements of regulations 25 or 26 if the RBS considers it unnecessary to demonstrate compliance with the Act or the Regulations for that stage of building work.

Where required under the Act or the Regulations, report and consent from a reporting authority relevant to the stage of building work needs to be obtained prior to the building permit for that stage of building work being issued.

The reporting authority must be provided with relevant information to accompany the application, as required under Schedule 2 to the Act.

Issuing a building permit

A building permit may be issued for each stage of work as set out in a Form 1 application.

Building work must not proceed beyond that approved by a building permit for a stage of building work until the proposed work is approved by the RBS. Additional work carried out without a valid building permit is an offence under Division 1 of Part 3 of the Act and is subject to significant penalties.

In addition, section 38 of the Act requires the RBS to issue a certificate of final inspection at the completion of each stage of building work.

Lodging of documents

The following documents must be lodged with the relevant council within seven days of a building permit being issued by an RBS:

- A copy of the building permit for the relevant stage of works.
- Other documents forming part of a permit application (as prescribed by regulation 44(1) of the Act).
- The checklist approved by the VBA for the purposes of section 30A of the Act.

The relevant lodgement fee is also payable.

Paying the building permit levy

Applicants must pay the building permit levy before their RBS can issue a building permit. This is a requirement under Part 12 of the Act.

Want to know more?

If you have any questions about this information, please contact the VBA.

Telephone: 1300 815 127
Email: customerservice@vba.vic.gov.au

Victorian Building Authority
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Practice Note 2014-21

Issued May 2014

Amendment of Building Permits

This updates the previous Practice Note No.2006-21 issued 2006

1. SUMMARY

Relevant building surveyors (RBS') have the power to issue building permits, but also to amend them in case of error, or minor changes in design. The RBS will need to calculate the impact of such amendments on building costs, to ensure that the correct levy amounts are remitted.

2. WHEN AMENDMENTS ARE REQUIRED

A building permit may have been issued with clerical errors or accidental omissions. In other cases, minor design changes may have occurred — for example, relocating, adding or deleting doors or windows.

Substantial design changes, such as an additional storey extension, would require a new building permit.

3. POWERS TO AMEND PERMITS

The provisions that allow building surveyors to amend building permits are contained in the Interpretation of Legislation Act 1984, section 41A. Powers granted under this Act to issue permits include the power to revoke or amend them:

"41A If an Act or subordinate instrument confers power to make, issue or grant an instrument (not being a subordinate instrument) the power shall, unless the contrary intention appears, be construed as including a power, exercisable in the same manner and subject to the same conditions or limitations (if any), to repeal, revoke, rescind, amend, alter or vary an instrument made in the exercise of that power."

4. PROCEDURES

When amending a building permit, the RBS should proceed in accordance with the intentions of section 70 of the Building Act 1993, which relates to occupancy permits. The building permit may be amended at the request of the building or land owner, or otherwise if the RBS considers it necessary.

5. LEVY ADJUSTMENTS

Minor design changes that alter building costs increase the levy sum payable to the Victorian Building Authority Fund. Additional levy amounts should be remitted with the next levy return submitted by the RBS.

If you have a technical enquiry please email: technicalenquiry@vba.vic.gov.au or phone 1300 815 127

Victorian Building Authority 733 Bourke Street Docklands VIC 3008

Schedule 1—Municipal councils in regional Victoria

Sch. 1 inserted by No. 31/2008 s. 16.

Section 18(8)

Alpine Shire Council
Ararat Rural City Council
Ballarat City Council
Bass Coast Shire Council
Baw Baw Shire Council
Benalla Rural City Council
Buloke Shire Council
Campaspe Shire Council
Central Goldfields Shire Council
Colac Otway Shire Council
Corangamite Shire Council
East Gippsland Shire Council
Gannawarra Shire Council
Glenelg Shire Council
Golden Plains Shire Council
Greater Bendigo City Council
Greater Geelong City Council
Greater Shepparton City Council
Hepburn Shire Council
Hindmarsh Shire Council
Horsham Rural City Council
Indigo Shire Council
Latrobe City Council
Loddon Shire Council
Macedon Ranges Shire Council
Mansfield Shire Council
Mildura Rural City Council
Mitchell Shire Council
Moira Shire Council
Moorabool Shire Council
Mount Alexander Shire Council
Moyne Shire Council
Murrindindi Shire Council
Northern Grampians Shire Council
Pyrenees Shire Council
Borough of Queenscliffe
South Gippsland Shire Council
Southern Grampians Shire Council
Strathbogie Shire Council
Surf Coast Shire Council
Swan Hill Rural City Council
Towong Shire Council
Wangaratta Rural City Council
Warrnambool City Council
Wellington Shire Council
West Wimmera Shire Council
Wodonga City Council
Yarriambiack Shire Council