

# BDAV News

Vol 15. Edition 5, June 09

Print Post Approved PP 328866/00083

**BDAV Bushfire  
Building Design Service  
Debt Collection  
Green Loans  
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## **Professional Indemnity and Public Liability insurance are BOTH vital to your business success.**

The BDAV has asked Steeves Agnew Underwriting Agency to put together an insurance package specially tailored and discounted for BDAV members. The result – great value cover that combines quality PI and PL protection into one policy for around the same price as professional indemnity cover on its own. That price cut hasn't been achieved at the cost of features or benefits though. In fact the **BDAV Insurance Scheme** offers PI cover up to

\$5 million and PL cover up to \$10 million and features a low \$250 excess, is fully compliant with the Building Act and is underwritten by a Standard & Poors A+ insurer.

The following chart outlines why both PI & PL cover are important. Also, the program offers other important insurance covers for members ✓ **Office**, ✓ **Income protection**, ✓ **Motor vehicle** and ✓ **Household**.

Like the BDAV PI & PL schemes, they're better than most because they offer great value and are **tailored for BDAV members**.

Call Steeves Agnew now for a quote.



Which policy covers you?	PI	PL
Personal injury as a result of a collapsed balcony due to faulty design	✓	
Visitor to a designer's business premises trips on carpet and is injured		✓
Hot coffee is spilt on a client and their design drawings, causing injury and damage		✓
Valuable architectural plans entrusted to a designer for safe keeping are lost	✓	
Designer alleged to have breached copyright in another's designs or marketing material	✓	
Whilst inspecting a client's site a designer treads through drying concrete, requiring costly rectification		✓
Designer recommends unsuitable materials for design feature and ordered to pay damages for misleading and deceptive conduct under the Trade Practices Act	✓	
Designer required to appear before the professional body responsible for enforcing the professions code of ethics	✓	
Representation costs for attendance at a formal legal inquiry into the circumstances surrounding an accident that resulted in the death of any person		✓
Fidelity and misappropriation (your money or your client's money) sub limit \$50,000	✓	

# BDAV Bushfire Recovery Building Design Service

Now that the clean-up process is well underway in the Victoria bushfire-affected areas, the number of enquiries being received by the BDAV from bushfire-affected persons is increasing. Many BDAV Members have offered assistance to such persons, often on a pro bono basis, either in whole or part.

The assistance being given by BDAV Members is being gratefully received by bushfire victims, with one such person recently commenting to the BDAV: "Thank you so much for your work in forwarding on my request; the response has been amazing, a credit to you and your members. I now look forward to the next step instead of fearing it."

The BDAV has been in touch with the relevant Shire Councils to advise them of the BDAV's Bushfire Recovery Building Design Service, which ensures that a structured approach is used, that is not overly bureaucratic.

Essentially, bushfire-affected persons are being asked to send a brief email to the BDAV outlining their circumstances, including the location of their property, and including their contact details. Such emails are then onforwarded to the BDAV's list of member volunteers. Those volunteers who are available and able to assist the enquirer then made contact direct with the enquirer. An appointment time is usually arranged between the designer and the enquirer to discuss further details about their specific needs and expectations, as well as the scope of services to be provided.

To support this service a Sub-Committee from the BDAV's Committee of Management is currently preparing guidance notes for bushfire-affected persons. Apart from general consumer advice, the guidance material will outline issues that require to be addressed, including:

- compliance with the relevant building standards;
- contemplating issues that need to be considered and addressed that may impact design expectations;
- design examples reflecting different styles of house designs, taking into account varying site conditions.

The BDAV believes the assistance being offered by the Association and its Members is assisting to boost public confidence about the building industry generally. Many people are seeking comfort and reassurance, and their initial contact in speaking to building design professionals is contributing to that confidence.

Whilst the BDAV has, so far, been able to fulfill the number of requests received from bushfire-affected persons, it is anticipated the number of enquiries will continue to escalate over coming weeks while the clean-up process continues. If you have not yet notified the BDAV of your preparedness to volunteer your services to bushfire-affected persons and are able to assist, please email your interest to BDAV to [info@bdav.org.au](mailto:info@bdav.org.au).

## New BDAV Contracts

In response to Member demand, the BDAV has developed a Commercial Building Works Contract for Alterations/Additions. The contract has been commissioned with Deacons Lawyers – one of Australia's most respected law firms in construction law. At the same time, the BDAV has requested Deacons to review the existing suite of BDAV Contracts to ensure they reflect contemporary construction law. This includes reference to Security of Payment legislation which was introduced in Australia subsequent to the first three BDAV Contracts being developed in 2000.

The four contracts in the suite should be available towards the end of June. They are:

- BDAV Domestic Building Works Contract
- BDAV Domestic Building Works Contract for Alterations/Additions
- BDAV Commercial Building Works Contract
- BDAV Commercial Building Works Contract for Alterations/Additions

Members will be advised once the new contracts are available for purchase.

## 3rd Bushfire Roundtable

The BDAV recently participated in another Built Environment Bushfire Support Roundtable, during which Victoria's Minister for Planning, Justin Madden, praised the commitment of the various organisations in the building industry who are involved in the recovery process. He extended his – and the Government's – thanks for their meaningful contributions. The Minister acknowledged the creation of a volunteer database and congratulated everyone present, asking them to pass this on to their members.

The Minister said that all the work done had reflected the community spirit, and characterised the generosity of Victorians, Australians and those well-wishers from overseas. The response gave a great sense of hope for the future, and human spirit.

The Minister said the Victorian Government had been swift and decisive following the bushfires, streamlining the building process, the setting up of Victorian Bushfire Reconstruction & Recovery Authority (VBRRA) and praised the leadership skills of Christine Nixon, who chairs the VBRRA.

Mr Madden also announced that, in the future, \$1billion would be put aside to help prevent bushfires through investment in new equipment, vehicles, etc.

The Minister congratulated the rebuilding of many kilometres of boundary fencing so far by Victorian Farmers Federation volunteers, and praised the work done by the Office of the Surveyor General.

He concluded by saying everyone had the support of the Government and the people of Victoria, and they were very appreciative of the huge task in hand. He encouraged people and organisations to keep up the momentum and maintain their enthusiasm.

### OUR COVER

#### ***Torotei – Lantern House***

designed by Stride Design

Winner of the BDAV 2008 award for

**Residential Design –**

**Alterations & Additions**

**up to \$200K construction cost**

Story : Page 5.

Cover photo: Mark Donaldson Photography

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# Cover Story : Torotei – Lantern House

Stride Design won the award for *Residential Design – Alterations & Additions up to \$200K construction cost* in the 2008 BDAV Building Design Awards for their Torotei–Lantern House. The project also won *Best Bathroom Design*.

"The client wanted a design to reflect contemporary Japanese styling," said Robert Rolls of Stride Design. "They wanted a master bedroom with ensuite/WIR, two additional bedrooms, and a carport with storage."

"The existing traditional beachside weather-board dwelling, home to an expanding young family, had scope to expand, however linking the new and old had to be addressed creatively. The client's desire for additional bedrooms, in turn, allowed the creation of a larger living space."

"Appreciation of the Japanese culture from previous travel experiences provided the nucleus for the styling and functionality of the new additions," said Robert. "The transition between the old and new had to be approached carefully. Torotei (lantern house) was the inspiration."

"Through the use of large expanses of full height glass, feature shoji screens and clever lighting, the 'floating lantern' effect was achieved."

"The juxtaposed new wing rests soulfully along the boundary, opposing the original kitchen and meals area, creating a sheltered integral courtyard."

"Part removal of the existing structure allowed the position of the new wing to the boundary," said Robert. "The extended open plan lounge creates seamless entry to the new wing."

"A smooth transition between new and old leads to a feature shoji lined glass junction, floored in traditional tatami matting," said Robert.

"The new ensuite was designed to engage its occupants in the traditional Japanese bathing experience. Floor to ceiling wall tiles, slatted timber floor, individual showers and a sunken bath create this whole family experience in a bath-house manner."

"Minor works to the existing dwelling created a larger living area which provides access to the new wing. This has the option of providing a seamless flow throughout the home, or zoning the different areas when required."

"A new carport with storage was created closer to the street-front in the traditional style of the existing dwelling. An outdoor shower area allows the family to rinse off upon returning from the beach.."

"The new dwelling creates a haven for its young family, enabling them to retreat from the hustle and bustle of a busy life whilst enjoying the different cultural experiences that a cleverly designed home provides."

The Torotei (lantern house) impressed the judges enough to win the award for Residential Alterations & Additions up to \$200K construction cost.

This design reflects contemporary Japanese styling; a dwelling addition with a wasabi kick. The clever use of butt joined glass gives the impression that the area is open to the elements, and smart low level louvres provide ample ventilation. Sliding shoji screens, tatami floor matting and a traditional bathroom design complete the authentic

*View to the newly enclosed courtyard (below) showing the relationship between old and new*

*...Continued next page*



feel. The angled external timber decking acts as both a separation and brings together different cultures, and building styles. This project is proof that looking outside the conventional dwelling addition design can bring about some pleasantly surprising results.

The project’s win of *Best Bathroom Award* was in recognition of its simple detailed slatted timber floor and its nod to the Japanese tradition of communal bathing, making this bathroom a delightful departure from the norm. Timber is featured throughout the bathroom, including the bath hob and the window frame, which forms part of the overall scheme. The communal showering area contrasts charmingly with the more intimate bathing zone. Shoji screen insets in the windows provide privacy and softly diffused natural light. Simple architectural junctions and cantilevered joinery assist in creating a spacious feel in this award-winning bathroom.

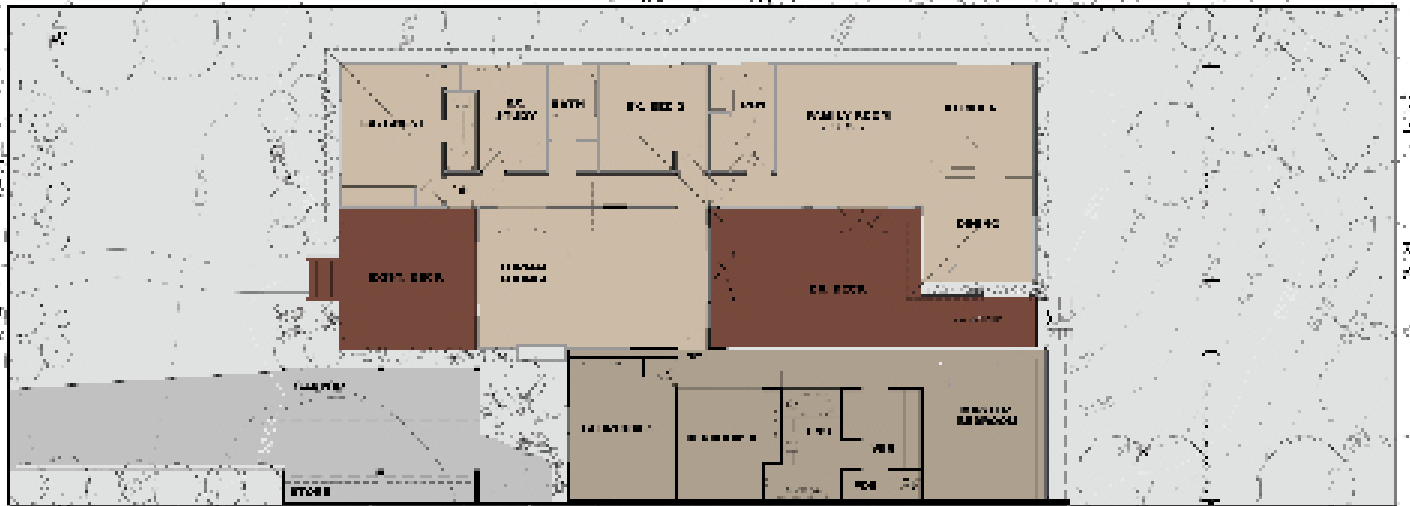


Acknowledgements

- Designer** .....Stride Design  
(03) 5973 4877  
www.stridedesign.com.au
- Building Surveyor**.....Nepean Building Permits
- Engineer** ..... Barry Gale Engineers
- Photographer**.....Mark Donaldson Photography

Products Used Included:

- Windows ..... Shugg joinery
- Cabinetry ..... Janver design
- Shoji, Rice paper screens.....  
The Japanese Shoji & Tatami company
- Tatami matting.....  
The Japanese Shoji & Tatami company
- Fittings..... Reece and Rogerseller
- Lighting ..... Custom Lighting
- Floor heating..... Speedheat
- Bamboo .....Red Cloud Bamboo
- Plants .....Din San Nursery











Building Designers  
Association Victoria



**Queries:**

[info@bdav.org.au](mailto:info@bdav.org.au)

(03) 9416 0227

[www.bdav.org.au](http://www.bdav.org.au)

## Join us at the BDAV's Annual Dinner...

Friday, 31 July 2009

Zinc at Federation Square

**A fantastic industry event to "see and be seen"!**

The dinner will feature the presentation of the **2009 BDAV Building Design Awards**, and is a great opportunity to celebrate with **Victoria's leading building designers**.

All BDAV Members, their partners, and industry colleagues are most welcome to attend.

This is the BDAV's 'flagship' event each year, and a great chance to catch up with your industry peers, while enjoying fine food and beverages, and convivial company, at one of Melbourne's most elegant and stylish venues, in Victoria's premium artistic precinct.

**Hope you can join us!**



For more information or if you wish to register visit

[www.bdav.org.au](http://www.bdav.org.au)

The BDAV Annual Dinner is proudly supported by:



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# Planning Changes to Boost Bushfire Rebuilding

A new planning amendment announced recently by the Brumby Government will fast-track rebuilding in Victorian communities devastated by the Black Saturday fires, streamlining the approval process for replacement dwellings.

Planning Minister Justin Madden said Victorian Planning Provisions and all planning schemes had been amended to make it easier to rebuild damaged or destroyed buildings as a result of the February bushfires.

"The Brumby Government will continue to stand by communities as they recover and rebuild after this year's tragic bushfires, and we are doing everything we can to streamline this process," Mr Madden said.

"Given the scale of devastation caused by the bushfires and the number of people who lost their homes, initiatives such as this are now needed with people ready to rebuild.

"Understandably, many of those seeking to rebuild will simply want to build on the same location as their previous dwelling, so the need to obtain new approval will now be unnecessary.

"These latest amendments provide an exemption to planning scheme requirements for replacement dwellings, dependent person's units and agricultural buildings. In most cases the exemption replaces the need for a planning permit."

Mr Madden said the approval of a simple site plan would provide a streamlined process and ongoing security for future owners of land, and legal proof of the right to develop.

"This will save time and money for many residents looking to rebuild. All they will have to do is speak to their local councils about what is required and have their simple site plan approved over the counter," he said.

"The Municipal Association of Victoria (MAV) has been consulted on the content of the planning scheme provision and it also supports the amendment. All fire-affected councils have also been provided with an opportunity to view and provide comments."

However, Building Commissioner, Tony Arnel, cautioned that the changes announced by the Planning Minister do not negate requirements for obtaining building permits.

Mr Arnel reinforced that, under the planning permit changes, the vast majority of home owners will still require a building permit for rebuilding projects.

"Building permit requirements for Victorian homeowners remain unchanged," said Mr Arnel. "While it is pleasing that the planning permit system has been streamlined to make the rebuild of damaged or destroyed properties easier, home owners should be careful not to confuse these changes with continuing requirements for building permits.

"Before you begin any building project, determining whether you need a building permit is one of the first steps you should take. Building permits are issued by a building surveyor to ensure that the proposed building work complies with all building regulations, including safety requirements.

"If you are not sure whether you need a building permit, contact either the municipal building surveyor at your local council or a private building surveyor," added Mr Arnel.

## Building Permit Process to Maximise Bushfire Rebuild Roof Material Choices

Victoria's building permit process will ensure the fire-testing of roofing materials for use in the Bushfire Attack Level (BAL) FZ zone (the highest level of bushfire risk) does not hamper home owners rebuilding after the February bushfires.

Building Commissioner, Tony Arnel, said that the Building Commission will allow home owners to submit plans without specific roofing material specifications so manufacturers have time in the next few months to complete their fire testing processes.

"There have been instances where home owners and their builders have found, when shopping around for suitable building products to rebuild their homes, that their choice of a new roofing system has not yet been fire-tested," Mr Arnel said.

"Materials are available for roofs in the BAL-FZ zone, which represents the most extreme bushfire exposure conditions, but choice is often the issue for owners. Suppliers are bringing new products to market all the time, and we know that the choice of materials is expected to expand considerably in coming months."

"Rather than delay the rebuilding process or limit an owner's choice of roofing materials because some have not yet been fire-tested, the decision has been taken to offer advice to industry regarding the process."

Allowing home owners to submit plans without specific roofing material specifications would enable manufacturers to have time to complete their fire-testing processes. Building surveyors and councils are being notified of the process to ensure

owners have maximum choice and that the rebuilding process is not hampered.

Mr Arnel added that the building permit issuing process would not be delayed.

"The Government introduced the new residential building standard early due to the overwhelming need to better protect our communities," the Commissioner said.

"Industry and product suppliers are looking at testing new roofing systems, which will adhere to the highest of the Bushfire Attack Levels, BAL-FZ. Both traditional tiled roofing systems and also steel roofing structures will be available to the market in the coming months."

BlueScope Steel has already completed assessments of commonly used steel

...Continued next page

construction solutions for compliance with the various BAL zones as defined by AS3959.

Michael Reay of BlueScope Steel said that based on the fundamental non-combustibility of steel, a multitude of commonly utilised steel building solutions are already compliant with BAL zones up to and including BAL-40.

"In addition, BlueScope Steel has already actively undertaken a communication program to inform Building Designers of their options in these BAL zones, through communications with and presentations to the Building Designers Association of Victoria in April 2009," Mr Reay said.

"BlueScope Steel is aware of a number of industry-published composite (consisting of steel cladding/glass fibre insulation and/or fibre cement fire panel) walling and roofing/ceiling solutions that achieve FRL 30/30/30 or higher fire ratings and thus could be used in the BAL-FZ zone," Mr Reay continued.

"These systems are currently being assessed by BlueScope Steel Technology to confirm their compliance with the Bushfire Standard and their ability to provide viable, certified BAL-FZ steel roof solutions.

"In addition, BlueScope Steel is preparing to undertake formal testing of steel roof systems against AS1530.8.2 to further optimise the practicality, constructability and cost effectiveness of steel roofing solutions for the BAL-FZ zone."

## FAQs

### Q: How will the building permit process work?

**A:** The relevant building surveyor of a project can now facilitate the start of reconstruction in bushfire affected areas by doing one of the following:

- Issue a staged building permit for construction of the building to a stage that excludes the roof system. This will facilitate the start of construction to include footings, frame, installation of windows and doors and the cladding to the point where it will not interfere with the installation of the roofing system; or
- Issue a building permit that includes a condition to the effect that details of a compliant roofing system are provided to and approved by the relevant building surveyor prior to the installation of the roofing system. (This is not dissimilar to the industry practice as it relates to roof trusses where the building permit applicant does not have access to the full engineering details of a roof truss system at the time of application for the building permit but will at a later date when the trusses are finally ordered from the particular truss manufacturer).

### Q: What has changed?

**A:** Homeowners should submit plans without specific roofing material specifications so manufacturers have time in the next few months to complete their fire testing processes.

Allowing home owners to submit plans without specific roofing material specifications enables manufacturers' time to complete their fire-testing processes in time for the rebuild.

Building surveyors and councils are being notified of the process to ensure owners have maximum choice and that the rebuilding process is not hampered.

### Q: Will the building permit process be delayed?

**A:** The building permit issuing process will not be delayed.

Rather than delay the rebuilding process or limit an owner's choice of roofing materials because some have not yet been fire-tested, the decision has been taken to advise the building industry of the building permit process.

### Q: Will the roofing products be able to meet the highest bushfire attack levels?

**A:** Industry and product suppliers are looking at testing new roofing systems, which will adhere to the highest of the Bushfire Attack Levels, BAL-FZ. Both traditional tiled roofing systems and also steel roofing structures will be available to the market in the coming months. This will be well in time for the bushfire rebuild.

The Government is also looking at viable roofing solutions or other fire protection methods that will meet the Standard for all bushfire attack levels.

### Q: Are there products compliant with BAL-FZ already available in the market?

**A:** Materials are available for roofs in the BAL-FZ zone, which represents the most extreme bushfire exposure conditions, but choice is often the issue for owners. Suppliers are bringing new products to market all the time and we know that the choice of materials is expected to expand considerably in coming months.

Importantly, Victoria's building permit process will not hamper home owners rebuilding after the February bushfires.

## Building Design Student Seeks Full-time Work (studying at night)

BDAV Member whose background is in structural welding; presently building with a residential builder. Is half way through his Diploma and looking to make a start in Architectural Drafting. Is very keen to learn and has an excellent work ethic. All enquiries to David on 0432 851 933 or email [ilpazzamucca@hotmail.com](mailto:ilpazzamucca@hotmail.com)

## Next BDAV CPD Seminar

**Monday, 6 July 2009 : A Case Study in Design Negligence**

**What do identifying discrepancies and inconsistencies on design drawings, 66.5mm balustrade height error and \$224,825 have in common?**

**Hear BDAV's Executive Officer, Brian Morison, explain why it is very important that you never underestimate your professional role as a designer.**

**For details, and to register: visit [www.bdav.org.au](http://www.bdav.org.au)**



# Approaches Towards Debt Collection

by Brian Morison, BDAV Executive Officer

*One of the by-products of the current global economic downturn is an increase in overdue debts. Several Members have recently contacted the BDAV's office seeking advice on how to obtain payment from overdue debtors. The following article, prepared by BDAV Executive Officer, Brian Morison, should be of assistance to members wishing to understand debt collection options.*

When considering a strategy for debt collection, there are a couple of methods that can be considered, namely using the services of –

- a debt collection agency
- lawyers
- Victorian Civil and Administrative Tribunal (VCAT)

In the case of debt collection agencies, this approach appears more effective for high volume sales with the potential for large trade debtors' listings. The use of lawyer's letter of demand (and possible institution of legal proceedings) should really only be accessed when dealing with significant debt sums or complex legal aspects, and particularly if counter claims are being made against you, such as failure to perform in accordance with your contract.

For the overwhelming majority of cases, instituting proceeds for recovery of a debt via the Victorian Civil and Administrative Tribunal (VCAT) is highly recommended as an inexpensive and effective debt collection process.

Through the VCAT Civil Disputes/Small Claims List, an unlimited amount can be claimed. The fees to lodge an application are not expensive. They are:

Less than \$10,000.....	\$35.20
Less than \$100,000.....	\$291.70
\$100,000+ .....	\$584.50

The process is simple. You are required to complete an application form and attach supporting documents about your claim to VCAT, which in turn forwards the documentation to the respondent (the person who has failed to pay). VCAT will send a Notice of Hearing letter to all parties stating the date, time and place of hearing.

The VCAT Member hearing the case may spend some time ascertaining whether or not the parties themselves can resolve the dispute without a full hearing. If the parties cannot reach a settlement, the VCAT Member will proceed to adjudicate.

Where a claim is less than \$10,000, in almost all circumstances, the parties must present their own case. Lawyers will not be allowed.

When attending the Tribunal hearing, you should bring to the hearing:

- Your quotations, engagement agreement, invoices, statements and cheque book receipts.
- Documents and correspondence relating to your endeavours to obtain payment.
- Plans, time sheets, job cards.
- File notes on telephone conversations, meetings and appointments relating to your debt, particularly where the debtor has acknowledged the debt but simply refused to pay.
- If the debtor files a counter claim, ensure you have available any other documents that be use to defend any such counterclaim.
- If appropriate, bring witnesses or photographs, visual aids, etc.
- Any other documents you feel would support your case.

Management of your project files plays an important role in any dispute resolution process.

Should you determine to lodge a claim with VCAT, the BDAV can assist Members as follows:

- Assist you in framing the VCAT claim application form (although it is very simple).
- Assist you in how you might go about presenting your case to VCAT, including an analysis of the strengths and weaknesses of your case and strategic direction.



- BDAV letters of support, for example, quality of drawings, appropriateness and quantum of fees and design practice and procedure generally. It is always useful to have such letters of support available to you, if you feel they may help your case or to defend any allegations made by a debtor.

However, at the end of the day, your debt collection process is only as good as your contract conditions or engagement agreement. Even if you have a robust debt collection process, a properly structured contract is integral to achieving the best results.

## New Members

The Building Designers Association of Victoria is pleased to welcome the following new members to the membership of the BDAV:

### Member (Full)

**Phillip Abriola**, *Interext Design Group Australia P/L*, Thomastown

**Mem Butler**, *MEM Butler Interiors*, Brighton

**Electra Corley**, *Renaissance Interiors*, Brighton

**Kimble Francis**, *Design Century Pty Ltd*, Cheltenham

**Thomas Hardy**, *TDH Design Pty Ltd*, Donvale

**David Hockley**, *Orbit Solutions Pty Ltd*, Melbourne

**Daniel Hogan**, *Themes Design*, Werribee

**Brett Kirkwood**, Croydon North

**Robert Leech**, *Rob Leech Design*, South Melbourne

**Chinh Hoang Mai**, *Planning and Design P/L*, Ivanhoe

**Greg McIntosh**, *McIntosh Design*, Pakenham

**Rosaria Miot**, *Solestaria Interior Design*, Balwyn North

**Vikki Montalban**, *Victoria Montalban Design*, Oakleigh

**Jenny Rankin**, Camberwell

**John Rast**, *John Rast and Associates*, Croydon

### Member (Individual)

**David Evans**, Upper Ferntree Gully

**Charlotte Nanvuyano**, Ferntree Gully

### Student Member

**Stanley Chia**, Carnegie

**Ben Parzyn**, Malvern East

**Jill Ritchie**, Narre Warren

**Jennifer Sanders**, Glen Iris

### Corporate Member

**AMAC Building Consulting P/L**, Officer

# BDAV Engagement Agreement Saves the Day

by Roy Hodgson, FBDAV

As part of my standard administrative office practice, I have been using the BDAV Building Designer Engagement Agreement since it was launched in 2000, and for good reason. Whilst I rarely have any issues with contracts, fees or disbursements, two issues have emerged over the last 12 months.

I was contracted to prepare design and construction documentation for a very large worldwide entity. A project manager was put in place by my client and made life a misery for me, the consultants and the builder. The project budget blew out due to client changes that necessitated a complete new main switchboard to be installed at a cost into the hundreds of thousands. The client instructed the project manager to start clawing back money to offset this, and to make the book balance more palatable for the board of directors. An issue of refusal to pay was

received when I raised several invoices for disbursements, including payment for sub-consultant professionals to close out the project. I raised concern with my client and to the project manager who stated that he would look into it. I started to get a bit worried, and sat down to check my contract I had with my client. After a lot of stalling tactics and some three months later, I was sitting in my client's office with a wad of invoices that hadn't been paid in one hand, and the BDAV Engagement Agreement in the other hand. After an hour of pawing through each and every single item noted on my invoices, I then calmly pointed out that I was not liable to pay the sub-consultants

***My recommendation ... is to have the BDAV Building Designer Agreement signed for each and every project...***

as I was acting on behalf of the client as written in our agreement that was signed by the client, the project manager and the CEO of the company. I was paid in full the very next day directly into my account. I still carry work out for this client and haven't had any issues since.

On another project, I was contracted to prepare design and construction documentation and, through the building process, to troubleshoot any issues on site. I had raised an invoice for the last part of the project at the building's completion. My client ran into some serious administrative issues, including mismanagement of funds and superannuation that caused the Federal Government to step in and appoint external administrators to run three of the businesses in the interim. Needless to say, all funds were frozen and the auditors were brought in to sort out this multi-million dollar mess. Being the small fry in the pan, I didn't have any hope of getting paid as the banks were at the front of the line. That was until I reviewed my contract and noted that I hadn't signed with the clients' business, but actually had a contract personally with the client. I checked and found that all my



invoices over the duration of the project had also been in my client's name and had been sent to their home address. There was no disagreement from the client that payment was due, but refused to pay stating that it was their business that was to pay. I had other thoughts. Knowing that they were certainly not short of a dollar and I was, I made a claim through VCAT. The hearing was heard and a copy of the BDAV Building Designer Engagement Agreement issued as evidence was greatly received, and a Tribunal Order was given for the client to pay the sum by a given date. The client did not attend the hearing so it was a very quick result. To date, the client has not paid the Tribunal Order, despite attempts to contact them. My option now is to apply to the Magistrates Court for debts up to \$40,000. A Warrant to Seize Property will then be considered and a Sheriff's Officer will go to the address to demand money. If payment is refused, assets may be seized to be auctioned. Sounds tough, but we are out-of-pocket whilst my client is still living very comfortably indeed. The businesses have since been sold and I am currently working with the new owners.

My recommendation for members is to have the BDAV Building Designer Agreement signed for each and every project, and to invoice regularly and often. Any issues will then be raised sooner so that steps can be taken to minimise your financial risk.

We have probably signed hundreds of the BDAV agreements, and I never really thought too much of its content, as our projects seem to run pretty trouble-free. But I never knew how powerful this document actually was until these issues emerged. It made me sit down and actually read the agreement, item by item. Although I probably could have won out in both cases in the end without the agreement, it would have taken a lot more of my time and effort to justify. The BDAV Building Designer Agreement has made my business life so much easier, working with confidence that the document has served me well, and will continue to do so into the future.

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# Meet David Mulhall

*This month we conclude our series profiling the BDAV's Committee of Management, and we get to know David Mulhall a little more....*

David Mulhall runs Accent on Design, and has been in business since April 1992. He joined the BDAV two years later. He has served on the BDAV's Committee of Management since 2001, and was BDAV President from October 2006 to October 2008.

"I started my course at Box Hill TAFE in 1987 so, 'officially' have been involved in building design since then; however my parents recently found several old scrap books full of "proposed floor plans" drawn by me from the age of 10 years on!", said David.

David is essentially a sole practitioner; although he does engage a documenter on a contract basis.

"I've always operated from an office specific to the business. I admire people who can operate their business from home; however, I need (and enjoy) the routine of commuting to work, and the clear distinction between home and work.

"Most of my commissions are residential based – renovations, new houses and development projects – however I am engaged to design medical, hospitality and light commercial projects from time to time."

"The majority of my work usually falls within a 30-40 minutes' drive from my office, covering the municipalities of Melbourne, Yarra, Boroondara, Stonnington, Bayside and Port Phillip. However, I am engaged for projects elsewhere, including Portsea, Daylesford and Anderson, to name just a few"

We asked David what has been the highlight of his career, and he responded:

"A residential project which recently has been constructed. It was the second project I had designed for the client, so there was a high level of trust before I started the design process. The design period was of the most prolonged and exhaustive I've ever been involved in – but with an almost endless amount of time to design the project, and with a client who was prepared to invest in design – to consider different options and to develop and refine the proposal. The final result was very satisfying."

We asked David to comment on any 'lowligh' during his career. His immediate response was: "The lowlight is when I have

to chase a client to get paid, but this happens very rarely, thankfully. Also, whenever good design gets eroded because of the planning process."

What does David value most from his BDAV membership?

"Whilst I acknowledge I'm on the editorial committee, I highly value the BDAV News every month – it's always full of technical and design information. I also equally value the BDAV PI Insurance Scheme. Without the Association taking the lead, PI premiums would still be outrageously high. Every Registered Building Practitioner – member or non-member – has benefited by the BDAV PI Insurance scheme driving down the cost."

We asked David to comment on any significant changes in the industry that he had observed since commencing in business, and he responded:

"I believe the most significant change in the industry was the introduction of Building Designers becoming Registered Building Practitioners, and the deregulation of the Building Permit process. Both changes revolutionised the way that Building Designers work."

We also asked David to comment on how he sees our industry progressing this year, particularly given the current global economic downturn...


"Having commenced my business during the last recession – The Paul Keating recession we had to have – it's a timely reminder how cyclical the economy and most particularly, the building industry is. Whilst the current analysis appears to be all doom and gloom, peoples' mindset does eventually adjust, and the economy then slowly recovers. I'm not sure even the so-called experts really know how long it will be before the economy recovers. However, prudent business operators will use any slowdown to review, improve and diversify their operations, keep a tight rein on overheads and fee collection, and perhaps use any spare time to up-skill by attending CPD events or training in new software.

We asked David what advice he would offer a young person just commencing in the design profession today, and his response was:



"Place a high importance in gaining a diverse range of professional experiences ahead of financial remuneration – treat a lower paying position in a progressive design business as an investment in your future. Be strategic in reaching your goals, but also be prepared to take an unexpected direction, if you feel it will assist in achieving your goals. Finally, if you have a desire to travel and or work overseas – do it early in your professional life."

*...Continued next page*



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Outside of work, David loves to take things easy whenever he can, and spend time with his wife, Trish and young son Bailey.

"My most relaxing recreational experience is to go out to a local café, order a coffee and read *The Age* – the simplest things in life are often the best !!"

"Or, on the weekend, I like to get home on a Friday evening and collapse on the couch with a glass of red in one hand and the TV remote in the other.....and repeat this on Saturday and Sunday night!"

"My favourite holiday destination (assuming money was no object) is Italy. I'd base myself somewhere around Lake Como, and then use its proximity to Milan to fly down to the Amalfi Coast and also to fly out to Paris and London, to completely max out the credit card."

"The last book I read was *The Very Hungry Caterpillar* to my two-year old son, Bailey. The book is celebrating its 40th year since being first published, and Bailey just seems to particularly love it."

"The last movie I saw was ..... did I mention I have a two year old? I haven't seen a movie in ages, but I still religiously watch *At the Movies with Margaret and David*; for what reason I'm still trying to work out.

David's favourite dining-out experience is *Becco*, in the city. "The service is first rate, the food is without fail fantastic, and the restaurant has simply a great atmosphere."

David's favourite "dining in" experience? "I'm embarrassed to say – a hamburger "with-the-lot" (and large chips) from *Andrews*, and a tub of "Double Choc-Chip" ice-cream from *Jocks* – both are long established institutions in Albert Park (where David lives) which make the world's best burgers and ice-cream.

"My favourite sport is Formula 1. I'm no rev-head, but I've followed F1 for many years, and I enjoy the technology and political side of the sport, perhaps even more than the on-track action."

## Member Seeks Work

BDAV member recently made redundant due to economic downturn seeks work. Has been with his last employer 4.5 years. If you have any openings, please contact Jason on 0405 205 091.

## BDAV Student Scholarship Nominees

Following consultation during 2008 with the Building Design Sub-committee of the TAFE Advanced Building Studies Network Group, the BDAV's Committee of Management determined that the BDAV would offer for 2008-2009 a scholarship of \$1,000 to a student at each of the 11 TAFEs who offer Building Design courses in Victoria, for the purpose of rewarding excellence achieved by students who are undertaking a course of study in Building Design. The scholarship offer was launched to TAFEs in October 2008, and nominations closed on 1 May 2009.

The following students have been nominated by their respective TAFE for the inaugural BDAV Building Design Student Scholarship:

- **Ian Knight** – student at Gordon TAFE
- **Sonya Wilkinson** – student at Holmesglen TAFE
- **Ross J Campbell** – student at RMIT School of Design (TAFE)
- **Travis L Povey** – student at The University of Ballarat

The \$1,000 funds will be released to each of the above-named students by 30 June 2009, provided the nominees comply with the reporting criteria of the scholarship program, which requires they provide to the BDAV:

- a written outline of how the scholarship funding will be expended and how it relates to Building Design;
- a timeline for the expenditure of the scholarship;
- an indication of the expected outcomes;
- details of any connections to other funding sources being used by the nominee to supplement and expand on the BDAV Scholarship.

The BDAV thanks those TAFEs who have supported this program.

The BDAV also congratulates the above four students on being recognised by their respective TAFE as having achieved academic excellence in their Building Design course. It is clear they have a promising career ahead of them in the building design profession.

## Commercial Building Permits Show Resilience

Victoria's building industry has experienced an 11 per cent decline in the value of building permits issued in the March 2009 quarter (January to March 2009) compared to the same period in 2008.

Announcing the latest *pulse* statistics on Victoria's building permit activity, Building Commissioner, Tony Arnel, said the value of permits issued had decreased 11 per cent to \$4.2 billion.

"North-Central is the only region that experienced an increase in the value of permits issued, with \$197.7 million of permits issued, which is a 23 per cent increase when compared to the same period in 2008," Mr Arnel said.

"When we look at the data for building use, commercial building permits is the only building use category to increase, up 8 per cent to \$793 million."

*The Building Commission collects Victorian building information monthly from building surveyors, who provide details of the building permits they issue. This article is based on a summary of this information.*

MARCH QUARTER 2009 BUILDING PERMIT STATISTICS IN DETAIL

By Region (Jan to March 2009)	\$M	% change compared to same period in 2008 (Jan to March 2008)
Inner Melbourne	1,752.2	-11.9%
Outer Melbourne	1,495.1	-12.4%
<b>Total Metropolitan</b>	<b>3,247.3</b>	<b>-12.2%</b>
Gippsland	161.9	-18.1%
North Central	197.7	22.6%
North East	125.9	-14.0%
North West	144.7	-6.2%
South West	275.4	-11.5%
<b>Total Rural</b>	<b>905.6</b>	<b>-6.7%</b>
<b>Total (Victoria)</b>	<b>4,152.9</b>	<b>-11.0%</b>

By Building Use (Jan to March 2009)	\$M	% change compared to same period in 2008 (Jan to March 2008)
Domestic	2,312.8	-3.0%
Residential	415.1	-17.0%
Commercial	792.2	7.7%
Retail	214.1	-26.8%
Industrial	71.2	-46.2%
Hospital/healthcare	69.5	-55.2%
Public buildings	278.0	-40.6%
<b>Total (Victoria)</b>	<b>4,152.9</b>	<b>-11.0%</b>

March Quarter	2006	2007	2008	2009
Value	\$3,762M	\$3,830M	\$4,667M	\$4,153M
No. of permits	24,008	23,279	24,087	22,207



# Building Thermal Performance Assessments - FirstRate 5 vs. BERS

by Roy Hodgson, FBDAV

As part of the BDAV commitment to ongoing Continuing Professional Development and delivery to our membership, a seminar was recently held at the Victorian Arts Centre on 4 May 2009 on the theme *Building Thermal Performance Assessments – FirstRate5 vs. BERS* to an audience of 150 keen Building Designers.

It wasn't actually a *one versus the other* battle on the night, as this will be up to the individual designer as to what he or she would like to gain from either program.

Two of Australia's leading energy efficiency experts talked about these two options.

Wayne Floyd, the President of ABSA (the Association of Building Sustainability Assessors) has been speaking nationally about *FirstRate5*, and he talked about how a rating is done using this tool, what's involved in conducting an energy rating using *FirstRate5*, and the key differences between *FirstRate4* and *FirstRate5*. Wayne included a demonstration using *FirstRate5* to illustrate how the tool works.

Michael Plunkett, who co-ordinates and delivers the *BERS Pro* training nationally, highlighted the features of *BERS Pro*, and also demonstrated how this tool operates. BERS is the Building Energy Rating Scheme.

Members will be aware that all States in Australia require homes to meet minimum thermal performance standards. Building Thermal Performance Assessments (sometimes referred to as House Energy Ratings) examine the thermal performance of the home, to determine its ability to remain comfortable with as little artificial heating or cooling as possible. Depending on which State you work in, there is a range of software available for modelling the energy usage of residential buildings. In Victoria, from 1 May 2009, *FirstRate5* took over from *FirstRate4* as a recognised software for energy rating assessments. Another option for Victorian thermal ratings is *BERS Pro*.

*FirstRate5* is used to rate new homes, but not extensions (BCA Classes 1a, 1b, 2, 4 & 10a). It uses the same simulation engine as CSIRO's AccuRate and BERS. It works as a whole-of-house assessment, rating all areas of the home, including all construction materials, ie ceilings, walls, floors, etc. It simulates the thermal performance for a typical year (8760 hrs) and uses the latest climate data which has 11 climate zones for Victoria. Your floor plan is PDF imported into the software and then the plan is traced for assessment. Once all calculations have been entered, a quick report can be issued, or a more detailed 40 page report issued for those keen on assessing all component ratings.

The *BERS Pro* software program is the centre of the thermal simulation process. It is used to simulate thermal performance in Australian houses in climates from alpine to tropical. The graphics based data entry interface has been designed to make the process of thermally modeling fast and accurate. Calculated data is displayed in graphic form, as well as being saved as files or documents. Multi-storey buildings containing many zones can be modeled. Properties can be copied and then pasted to other elements of the same type. User constructed information such as window shading schedules, user and client profiles, default building properties etc can be saved and then later opened and used for

future projects. The thermal performance of a building can be analysed in terms of heating and cooling energy per floor area. This is then converted to a star rating for regulatory compliance. *BERS Pro* can be used throughout Australia to show compliance with Section J of the BCA.

Costs vary from one programme to another, with some attracting an annual licence fee. You may view these software costs, training and other special features for *FirstRate 5* on [www.sustainability.vic.gov.au](http://www.sustainability.vic.gov.au) and for *BERS Pro* on [www.solarlogic.com.au](http://www.solarlogic.com.au) (about *BERS Pro*) and [www.smartrate.com.au](http://www.smartrate.com.au) (for *BERS Pro* training).

The speakers were congratulated for their clear and informative presentations.

A great opportunity to network with other members and to catch up with sponsors supporting the evening was welcomed afterwards, with tasty food and refreshments being offered in the contemporary venue's foyer.

For those members who could not attend the event and missed out on this informative seminar, you may capture the whole presentation and view it in your own time by purchasing the professionally edited DVD from the BDAV. Order a copy by emailing [info@bdav.org.au](mailto:info@bdav.org.au) (pre-payment is required: \$44.00 for BDAV Members; \$66.00 for non-members).

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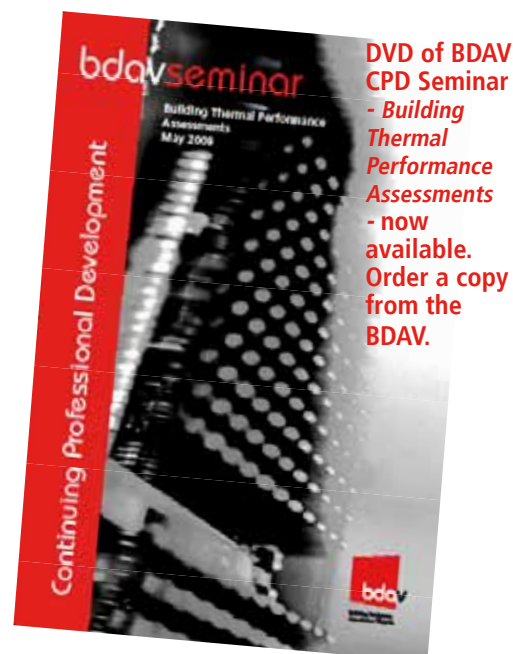
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# Planning Tit Bits

*These tit bits are part of the regular contribution made by Clause:1 Property Planning and Development Services to BDAV News. For more information contact Ashley Thompson on (03) 9370 9599 or visit [www.clause1.com.au](http://www.clause1.com.au)*

## Little bits that can make a big difference to your town planning outcomes.

### Signage

Whether it forms part of a new development scheme or retrofitting of an existing building, a major roadside advertising billboard signage is controlled by Victorian planning schemes and needs to be considered carefully as part of any planning permit application.

Amongst the Victorian Planning Provisions, signage is referred to within Zone controls, Particular Provisions and even provided with its own category of Definitions at Clause 73. Consequently, the referencing which is required across a planning scheme to determine signage permit requirements for any particular proposal may prove confusing for first time users. This "Tit Bit" attempts to provide some clarification.

The last clause contained within each zoning provision is entitled "Advertising signs" and identifies that land covered by that zone is placed in one of four categories:

- Category 1: Business areas
- Category 2: Office and industrial
- Category 3: High amenity areas
- Category 4: Sensitive areas

The reader in turn is referred to Clause 52.05 (advertising signs) of the Particular Provisions which provides clarification as to what form of signage is permitted (or prohibited) within each category.

Similar to any land use table contained within a zone, each category identifies the form of signage as either Section 1 (no permit required), Section 2 (planning permit required) or Section 3 (prohibited). Conditions that must be met are also imposed upon certain forms of signage. If in doubt, an applicant should refer to Clause 73 of the definitions which provides clarification as to how their sign is categorised. This will assist in understanding the tables contained at Clause 52.05 and any additional requirements contained within overlays affecting the site.

Clause 52.05 also includes a detailed list of decision guidelines against which a Responsible Authority is required to assess any signage application. The Schedule to Clause 52.05 may also contain exemptions

or special requirement that will need to be reviewed. These should be understood and incorporated into the design response by all applicants prior to lodgment.

We provide the following general guidelines for common signage types for your reference and encourage all readers to review the above provisions carefully for each job:

#### Business 1 Zone

Advertising sign category: 1 (business area)

No permit required: As a general rule business identification and promotional signs do not require a permit if less than 8sq metres and not illuminated; internally illuminated signs less than 1.5sq metres generally will also not require a permit.

All other signs require a permit and no type of signage is outright prohibited within Category 1 (business areas)

#### Industrial 1 Zone

Advertising sign category: 2 (office and industrial)

No permit required: Similar to Business 1 Zone above

All other signs require a permit and no type of signage is outright prohibited within Category 2 (office and industrial areas).

#### All Residential Zones

Advertising sign category: 3 (high amenity area)

No permit required: Bed and breakfast sign on the condition that a maximum of one per premises is proposed;  
Home occupation sign on the condition it does not exceed 2sq metres.  
Direction sign

All other signs either require a permit or are prohibited within Category 3 (high amenity areas)

#### Farming Zone

Advertising sign category: 4 (sensitive areas)

No permit required: Bed and breakfast sign on the condition that a maximum of one per premises is proposed; Home occupation sign on the condition it does not exceed 0.2sq metres.

### Direction Sign

A planning permit is required for a floodlit sign and a business identification sign (which cannot exceed 3sqm). All other signs are prohibited within the Farming Zone and other Category 4 (sensitive areas).

As a final comment we note that some overlays can trigger a permit for Section 1 signs, so be sure to verify that no additional requirements are contained within any overlay affecting your land.

### Applying to the Wrong Authority

For the vast majority of planning matters the local Municipal Council is the relevant authority responsible for receiving and determining applications. However this is not always the case.

The Schedule to Clause 61.01 identifies who is responsible for the administration and enforcement of each of the planning schemes. In most of Victoria's municipal planning schemes this schedule identifies the Minister for Planning as the responsible authority for selected types of applications and application affecting specific land. For example *Clause:1* has recently been involved with an application to the Minister relating to land contained within the Flemington Racecourse. Under the provisions of Clause 61.01 of the Melbourne Planning Scheme, Flemington Racecourse falls under the jurisdiction of the Minister not Melbourne City Council.

In a recent VCAT case (reported in 2009 33 VPR) *Phan v Maribyrnong CC (VCAT 68/2009)* the increasing significance of Clause 61.01 was highlighted.

The VCAT appeal was lodged by an objector who sought to challenge the decision of Maribyrnong City Council to grant a planning permit for student accommodation. The subject land was located in a precinct known as the 'Footscray Renewal Project Area'. Pursuant to Clause 61.01 of the Maribyrnong Planning Scheme, the Planning Minister was the Responsible Authority for permit applications with an estimated cost exceeding \$250K within the renewal area. This fact was not discovered until after the VCAT appeal was lodged.

Unfortunately neither Council nor the permit applicant had reviewed Clause 61.01 and the application had erroneously been lodged and determined by Council. The

Tribunal determined that it could not review a decision that had been made by the wrong Authority. The implications for the permit applicant are substantial. A new planning application is now required to be lodged with the Minister and processed afresh.

Although this scenario is rare, recent initiatives by the State Government have seen the Minister become responsible for an increasing number of matters under Victoria's planning scheme, particularly in larger activity centres and priority redevelopment areas.

### Best and Worst Councils to Work With

Each year the Department of Planning and Community Development releases detailed data on the number and types of planning permit applications lodged within municipal councils across Victoria. Similarly, the Victorian Civil and Administrative Tribunal (VCAT) also releases data once a year covering application activity. Whether read independently or cross referenced, this data provides some interesting insight into the nature of decisions by the different Councils, the number of matters that end up at VCAT and how often Councils get it right (or wrong) in the eyes of the Tribunal.

As *Clause:1* has done previously, in coming months we will provide a detailed article drawing conclusions from this data that is sure to be of substantial interest to regular planning permit applicants. In this *TitBit* we simply draw some of the headline statistic to your attention.

### Key stats relating to the planning permit application activity at Council:

- A total of 59,231 planning applications were lodged in Victoria throughout the reporting period.
- The number of applications lodged increased by 2,300, or 4.7% compared with the previous reporting period.
- 96% of applications determined resulted in permits being issued.
- The average gross days for a determination of an application was 116 days
- The top five Councils that received the most planning permit applications in the reporting period:
  - Mornington 3387 applications
  - Kingston 2148 applications
  - Yarra Ranges 2202 applications
  - Greater Geelong 1919 applications
  - Boroondara 1880 applications
- Approximately 6% of all Victorian

planning permit applications were appealed at VCAT.

### Key stats relating to VCAT's proceedings include:

A total of 3,631 applications were lodged with VCAT of which:

- 27% (980) involved an appeal against Council's decision to refuse a planning permit
- 19% (689) involved an appeal by an objector against Council's decision to grant a permit
- 16% (581) involved an appeal by an applicant against conditions imposed upon a permit
- 12% (435) were made following Council's failure to determine an application within the prescribed timeframe
- They remaining 26% involve enforcement proceedings and various other applications.

The table on page 19 lists the number and type of appeals associated with the top 10 most active Councils at VCAT.

Of the applications determined by VCAT throughout the reporting period the statistics indicate that:

- Only 31% of all applications lodged by permit applicants against Council's decision to grant a permit were not successful (ie 69%) were wholly or partially successful;
- 95% of application lodged by the permit applicant seeking to challenge a permit condition were wholly or partially successful; and;
- Only 10% of appeals lodged by objectors seeking to challenge Council's decision to grant a permit were fully successful.

When cross-referencing the two data sources the type of interesting observations that come to light include the fact that, despite receiving one of the lowest volumes of planning permit applications for any metropolitan municipality, Bayside City Council was ranked 6th in the top ten most active Councils at VCAT.

We look forward to analyzing this data in more detail and providing further interesting insights into the best and worst Council's to work with.

*As always, if you have any questions relating to any of the information contained within this month's BDAV Planning TitBits please don't hesitate to contact Clause:1 on (03) 9370 9599.*

Planning permit applications

Pre-purchase assessments

VCAT representation

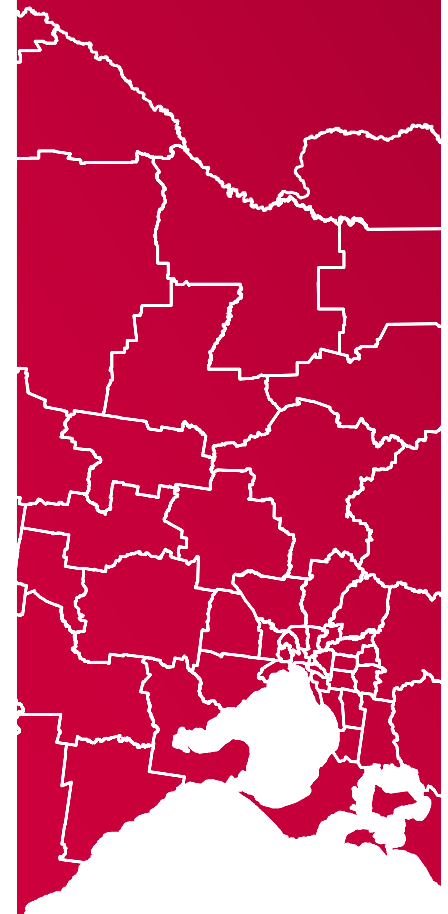
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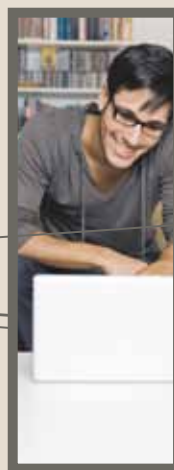
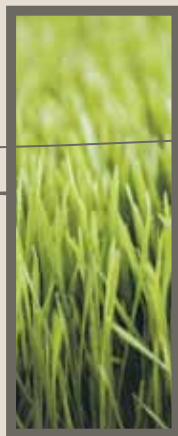
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# Restrictive Covenants

## What Victorian Developers Need to Know about Removing and Varying Them

by Clause:1 Planning

This is Part 3 of a four part article looking in detail at the options available for removing or varying a restrictive covenant in Victoria. Parts 1 and 2 were published in previous editions of BDAV News. Part 4 will be published in the next edition:

- Part 1: Introduction and Planning Permit Applications
- Part 2: Planning Scheme Amendment Process.
- Part 3: Supreme Court Applications
- Part 4: Important Considerations and Criteria for Selecting the Best Option.

### Part 3: Supreme Court Applications

In Part 3 of this restrictive covenant article we explore the longest established means of removing or varying a restrictive covenant. This process involves an application to the Victorian Supreme Court under which an owner of land burdened by the covenant must satisfy the Court that at least one of the tests prescribed within Section 84 of the Property Law Act (Vic) 1958 can be overcome.

### The Tests

Morris J provides some substantial commentary on understanding the different tests prescribed by Section 84 in *Stanhill Pty Ltd v Jackson* [2005] VSC 169. His commentary refers to a case law within Australia and overseas and provides valuable reading for anyone considering removing or varying a restrictive covenant by way of an application to the Victorian Supreme Court.

Section 84 contains three paragraphs, 1.a), 1.b) and 1.c), that set out the relevant considerations. The section below identifies each of the tests contained within Section 84 of the Property Law Act and provides clarification of their meaning by reference to previous determinations and some practical examples.

Section 84 1.a): Obsolescence, Impediment & Real Benefit to Others

Section 84(1)(a) of the Act affectively prescribes two tests which the Court may consider in deciding on an application to remove or vary a covenant.

#### Obsolescence

The first of these relates to obsolescence and reads as follows:

*that by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Court deems material the restriction ought to be deemed obsolete*

As stated by Morris J in *Stanhill v Jackson*, under this Section "the power to discharge or modify a restriction is only enlivened if, by reference to the original purpose of the covenant, the restriction is virtually valueless to the persons entitled to the benefit of it."<sup>1</sup> If the "restrictive covenant continues to have any value for the persons entitled to the benefit of it, then it can very rarely, if at all, be deemed obsolete."<sup>2</sup>

In practical terms an applicant seeking to have a restrictive covenant varied or

removed is essentially required under this test to prove that the covenant is obsolete. Previous cases relating to single dwelling covenants have considered the covenant to be obsolete in situations where the neighbourhood character of an area had changed so substantially from the time the covenant was first registered so as to render the restriction redundant and no longer effectual.

Unreasonable impediment to land usage with no practicable benefit to others

The second test held under Section 84(1)(a) of the Act reads as follows:

*...the continued existence thereof would impede the reasonable user of the land without securing practical benefit to other persons or (as the case may be) would unless modified so impede such user*

In order to rely upon this Section of the Act, both elements must be established.

The first element of this test being: that the restriction unreasonably hinders the use or development of the land. It would for example be possible to argue that a single dwelling covenant on a lot located within a Principle Activity Centre constituted an unreasonable impediment to the land's use and development having regards to the planning controls affecting the site and its context amongst neighbouring development and uses.

The second element of this test being: that no practical benefit is secured by other persons as a result of the restriction. In this sense a 'practical benefit' is considered a real benefit and must be relevant to the purpose or intent of the restriction. An applicant needs to convince the court that no practical benefit is maintained by the retention of the restriction.

### Section 84 1.b): Mutual Consent

Under Section 84(1)(b), the court may allow the removal or variation of a covenant where the person(s) benefited by the restriction:

*...have agreed either expressly or by implication by their acts or omissions to the same being discharged or modified...*

The wording of this Section is

### From Planning TitBits article (Page 17) Appeals Associated with Top 10 Most Active Councils at VCAT

Top 10 Municipalities by volume of applications to VCAT	Applications to VCAT by Objector/s about Decision of Council to Grant a Planning Permit		Applications to VCAT by Permit Applicant about Decision of Council to Refuse to Grant a Planning Permit		Application to VCAT by Permit Applicant about Decision of Council to Impose Conditions on a Planning Permit Application (%)		Application to VCAT by Permit Applicant about Failure of Council to Decide about a Planning Permit Application (%)		Application to VCAT for Enforcement Order		Other Applications		Total
	Municipality	No.	% of Total for Council	No.	% of Total for Council	No.	% of Total for Council	No.	% of Total for Council	No.	% of Total for Council	No.	
Boroondara	34	15%	65	28%	32	14%	32	14%	7	3%	61	26%	231
Stonnington	44	22%	56	28%	28	14%	27	14%	8	4%	34	17%	197
Port Phillip	71	38%	22	12%	45	24%	12	6%	5	3%	32	17%	187
Morn Peninsula	47	25%	32	17%	30	16%	35	19%	11	6%	30	16%	185
Yarra City	34	22%	20	13%	34	22%	33	21%	4	3%	32	20%	157
Bayside City	8	6%	66	46%	25	17%	25	17%	2	1%	17	12%	143
Glen Eira	24	17%	51	36%	45	32%	1	1%	6	4%	15	11%	142
Darebin City	31	22%	20	14%	23	16%	25	18%	8	6%	33	24%	140
Moreland City	24	20%	47	39%	16	13%	9	7%	1	1%	25	20%	122
Hobsons Bay	13	12%	46	42%	21	19%	7	6%	2	2%	20	18%	109
All Councils	688	19%	987	27%	564	16%	452	12%	179	5%	761	21%	3631

1 *Stanhill Pty Ltd v Jackson* [2005] VSC 169  
2 *Re Robinson* [1972] VR 278

... Continued next page

essentially self explanatory and requires no further discussion. It is however worth noting that in instances where an applicant is able to secure the written consent of all beneficiaries to the removal/variation of a covenant, it would be more prudent to pursue the "planning permit application" method to remove or vary the covenant due to the substantially reduced costs and potential timeframe involved.

### Section 84 1.c): No substantial injury

The provisions of Section 84(1)(c) states:  
*that the proposed discharge or modification will not substantially injure the persons entitled to the benefit of the restriction*

This Section evokes the need for the Court to undertake an assessment of the injury (or harm) suffered by a beneficiary to the covenant:

*"Such injury can only be properly assessed by a comparison between the benefits intended to be conferred and actually conferred by the covenant initially on the persons entitled thereto and the resultant benefits if any remaining to such persons after the covenant has been modified. If from the evidence it appears that the difference between the two will not be substantial, then the applicant will have established a case for the exercise of the court's discretion under paragraph (c)."*<sup>3</sup>

Moriss J further clarifies this by stating it "is sufficient to show that the proposed discharge or modification will not cause harm to the persons entitled to the benefit of the restriction which could be regarded as being of real significance or importance. This will require a judgment call in the particular circumstances being considered".<sup>4</sup>

<sup>3</sup> Re Cook [1964] VR 808 at 810-11  
<sup>4</sup> Stanhill Pty Ltd v Jackson [2005] VSC 169

### The Process

The process of applying to the Supreme Court is best initiated by a legal practitioner. It is usual for expert evidence prepared by a town planning consultant to accompany the initiating documentation to the Supreme Court. Notification to all beneficiaries will usually be required and an opportunity afforded them to join proceedings and make submissions to the court. The process will usually take between 6-18 months and will regularly cost the applicant in excess of \$15,000 for representation and associated application fees.

Furthermore, applicants may be liable for the

costs of other parties involved in proceedings and the Court also has the power to award compensation to any person suffering loss as a result of an order to discharge or modify a covenant.

For more information or advice relating to a specific project contact our office on 03 9370 9599. In the next and final installment of this article we will look at some universally important considerations associated with removing or varying restrictive covenants and present some criteria for selecting the best of the three methods (planning permit application, planning scheme amendment or Supreme Court application) depending on the specific facts associated with your site.

## Windows By Design

Members of the BDAV's Committee of Management and other invited members recently previewed the new *Windows By Design* facility launched by Architectural Window Systems in Beaumaris.

The showroom incorporates many innovative ideas, which will be of benefit to BDAV members and their clients when specifying contemporary architectural window and door systems.

The *Windows By Design* team provides technical advice, design expertise and quality workmanship to ensure the highest quality products for your projects.

*Windows By Design* is open Monday to Friday, 10am to 4pm at 328 Reserve Road, Beaumaris. Phone (03) 9585 7255 or visit [www.windowsbydesign.com.au](http://www.windowsbydesign.com.au)



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## BDAV Member Wins in Whitehorse Sustainability Awards 2009

BDAV Member, Maxa Design was very proud to win the Whitehorse City Council Sustainable Small Business of the Year Award earlier this year. Presented in March 2009 as part of the annual Whitehorse City Council Sustainable Living Week, the Whitehorse Sustainability Awards aim to recognise residents, community groups and businesses for achieving outstanding levels of sustainability.

As environmental building designers, Maxa Design have a passion for the environment that goes beyond most people's expectations. In previous years the company had already undertaken numerous initiatives in their office to "reduce, re-use and recycle" such as promoting climate appropriate dress standards along with an office heating and cooling policy, recycling of waste (not just paper), 100% pc fibre paper products, purchasing of 100% greenpower, 3 and 4 star rated water appliances, and a full non-toxic fitout of their office space.

In the past year, Maxa Design challenged themselves to see what else they could do to improve their carbon footprint. This led to the City of Whitehorse Ecobiz program. Upon starting the Ecobiz program, Maxa Design were assessed as having a very low carbon footprint (effectively a 'gold' rating); however, there was still room for improvement. Maxa Design set out to act on these improvements immediately, and have since introduced cycling to work more often (non-meeting days), the introduction of plants to the office area for air-cleaning, staff education and encouragement to act at home, and have offset their carbon emissions through the purchase of carbon offset credits. This effectively makes Maxa

Design a zero carbon emission business operating from a zero-VOC office space (and a 'platinum' ecobiz rating)!

Maxa Design's Director, Sven Maxa, has recently signed to participate with the City of Whitehorse Ambassador program, in an effort to again further his knowledge of sustainability and share that knowledge with the community, not just clients!



*Sven Maxa (right) receiving the award from Cr Andrew Munroe of the City of Whitehorse*

## AWS Design Competition

Architectural Window Systems, in conjunction with their industry partner, KarelCAD – both of whom are sponsors of the BDAV – have launched two competitions: one for industry practitioners; the other for students.

Both competitions offer a fantastic prize of a suite of Revit Architectural software valued at \$9,500, which is an innovative suite of 3D-modelling software from Autodesk.

The competition, which encourages a creative use of AWS products, closes on 30 June 2009.

The BDAV encourages Members to support this competition.

The 'Practitioner' competition requires design professionals to supply AWS with a plan and/or window schedule for a project – residential or commercial – that has specified AWS products (Vantage, AWS Commercial, or ThermalHEART™)

The Student competition requires a three-room residential dwelling under 200sqm in size to be designed in 3D that features Vantage ThermalHEART™ products.

Details, including entry forms, may be downloaded from the BDAV website under 'Major Partners', or email [techsupport@awsaustralia.com.au](mailto:techsupport@awsaustralia.com.au)

Whilst this is an Australia-wide competition, we at the BDAV would love to see either or both of these prizes won by BDAV Members.



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# Green Loans

*The following special feature will assist Members whose clients ask them about the newly announced Green Loans program, which will commence mid-2009.*

Green Loans is a new Australian Government initiative to help Australians tackle climate change. The Green Loans Program will assist Australian families to install solar, water saving, and energy efficient products.

Green Loans has two main components of support from the Australian Government:

1. a free Home Sustainability Assessment and report (valued at over \$250); and
2. access to a Green Loans subsidy provided to participating financial institutions to cover up to four years interest for borrowing of up to \$10,000, to implement changes recommended in the assessment report.

Assessments are expected to commence mid 2009 and will be available until 31 December 2012, or until available funding is exhausted (whichever comes first). Subsidised Green Loans are intended to be available until

31 March 2013 or until available funding is exhausted (whichever comes first).

## How Will it Work?

Firstly, households looking to save energy and water will have access to a qualified household sustainability assessor to investigate their current energy and water use. Households who participate in a household sustainability assessment will be provided with a tailored report on the best energy and water saving changes they can make to their property as well as practical information to help get them started.

Secondly, the program will help households who chose to undertake actions suggested by the assessment with a Green Loan subsidy to significantly reduce the cost of loans of up to \$10,000. The loans will be made available through partnering financial institutions. Details on the terms of loans will be available mid 2009.

The Department of the Environment, Water, Heritage and the Arts is finalising the program guidelines which will set out eligibility criteria and administrative arrangements.

## Green Loans Subsidy

Many households who take up a Home Sustainability Assessment may be interested in taking out a loan to undertake the home improvements suggested in the assessment report. To assist these households, the Australian Government will lower the cost of finance by providing a loan subsidy to participating financial institutions.

## Assessor Training and Registration Scheme

To ensure Green Loans Home Sustainability Assessments are of a consistent high standard and are positive experiences for households, the Australian Government is setting up a new training and registration scheme for Home Sustainability Assessors who wish to undertake assessments for the Program.

The scheme has three components:

1. A comprehensive training course has been developed to ensure the quality and consistency of assessments and assessors.
2. Assessors are required to be registered with an Australian Government Assessor Accrediting Organisation.
3. An independent auditor will conduct quality checks of assessment services to ensure that the assessments are of the highest standard.

Only assessors who meet this new training and registration standard will be contracted by the Australian Government to conduct assessments for the Green Loans Program.

Given the level of complexity of house inspections for Green Loans Home Sustainability Assessment data collection and analysis, it is important that those that conduct inspections and use the software are adequately trained.

It is expected that they should have, as a minimum, a reasonable level of understanding of building design, building thermal performance, energy systems, water systems, and the behaviour of occupants as they interact with buildings.

The Association of Building Sustainability Assessors is responsible for assessor training. Further information is available at [www.hsas.net.au](http://www.hsas.net.au)

## Green Loans Program Overview

The 2008/09 Federal Budget announced a program to assist Australian families to install solar, water saving, and energy



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efficient products. The program will provide householders with detailed Home Sustainability Assessments by suitably qualified assessors, tailored assessment reports, general renovation information and access to subsidised 'Green Loans' of up to \$10,000 to make their existing homes more energy and water efficient.

### Objectives of the Program

The key objectives of the program are to:

- encourage wide-scale improvement of energy and water efficiency in existing homes;
- provide sound advice to households on the most appropriate actions to reduce the environmental impact of operating their home;
- provide financial assistance to households to gain access to the resources they need to invest in energy and water efficient technologies;
- reduce annual greenhouse gas emissions.

### Home Sustainability Assessments

The Home Sustainability Assessment contains four main activities:

- booking of the assessment using the phone booking service, the online booking system or directly through an assessor who has been contracted to undertake assessments for the program;
- free home inspection and assessment by an assessor;
- provision of initial advice to the household by the assessor;
- receipt of an assessment report.

The Home Sustainability Assessment is conducted by an expert assessor, contracted by the Department of Environment, Heritage, Water and the Arts to undertake assessments for the program. The assessment will involve the physical inspection of major energy and water systems relating to thermal comfort, water heating, lighting, refrigeration, cooking, entertainment, water consumption, and waste management. Data about each of the energy and water systems and about how the household interacts with those systems is collected during the assessment and provided to the Department. The length of the assessment will be impacted by the amount of information available, the size of the property and the number of energy and water systems to be considered. The household may be invited to conduct a partial assessment (self assessment) in advance of the expert assessment to facilitate a more efficient assessment service. Participation in a self assessment process is voluntary.

Initial advice will be provided through a conversation between the household and the assessor. This conversation will help the assessor build a picture of the household's environmental aspirations and current practices and behaviours.

Within approximately ten business days, the household should be provided with a written assessment report describing the assessment findings, recommending actions, and providing details of where to get further services or information. For the purposes of seeking a subsidised green loan, the assessment report remains valid for six months from the assessment report date.

### Subsidised Green Loan

Households who receive an assessment report may seek financing to undertake various energy and water system improvements recommended in the assessment report. To assist these households, the Department will lower the cost of finance by providing a loan subsidy to participating financial institutions for the benefit of the household. The householder can choose any qualifying financial product, from any of the participating financial institutions to benefit from the subsidy.

To participate in the program, financial institutions will have to comply with the Department's requirements regarding the application of the subsidy as set out in the Financial Institutions Subsidy Deed. A list of participating financial institutions will be published on the program's website.

Where the requirements in the subsidy deed are met, the Department will provide the subsidy to the financial institution in respect of green loans for a maximum loan amount of \$10,000 and a maximum period of four years.

### Eligibility for a Home Sustainability Assessment

Householders are eligible for a free Home Sustainability Assessment if the following conditions are met:

- The applicant must be an Australian citizen or a permanent resident of Australia.
- The applicant must be aged 18 or over.
- The applicant must have a taxable income no greater than \$250,000 per annum. Suitable evidence of income may include the most recent Notice of Assessment produced by the Australian Taxation Office.
- The applicant must be either an owner

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of the home or a trustee of the home (as shown on the current title) or listed on the current lease of the home.

- The home being assessed must be in Australia or its territories, and be the principal place of residence for a household.
- The home being assessed must have been completed and occupied for at least 12 months (not necessarily by the applicant). Suitable proof may include a certificate of occupancy or similar issued by a local, state or territory government agency.
- The applicant must give the Department permission to access (through their energy and water suppliers) energy and water consumption information for a period of 12 months (where available) preceding the assessment, and up to 24 months after the assessment (this data is an extremely important part of the program for environmental impact analysis and program evaluation).
- Government owned dwellings are not eligible.
- Dwellings owned by corporate organisations or companies are not eligible.

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**Note:**

- While all reasonable effort will be made to make Home Sustainability Assessments available in all regions of Australia, some remote areas may not have expert Assessors available at all times.
- Households will be advised at the time of booking if an assessment service is not available and will be provided with an alternative process to receive a Home Sustainability Assessment Report eligible for the subsidised Green Loan.
- Where the dwelling is owned by an Australian Registered Charity, the applicant must have the full legal authority to apply on the organisation's behalf.

**Application Conditions for a Home Sustainability Assessment**

To receive a Home Sustainability Assessment the applicant must:

- Request a Home Sustainability Assessment via an assessor contracted to provide services for the program, the online booking system or the phone booking service.
- Agree to the terms and conditions in the Householder Application which will be provided on booking the assessment.
- Provide details of the home and household, including contact details for the applicant and the names of other household members.
- Allow the assessor reasonable access to the home to conduct the inspection and collect the assessment data.
- Actively participate in the assessment process by answering all reasonable

questions about the household's interaction with the energy and water systems, as requested by the assessor.

**Eligibility to Apply for a Subsidised Green Loan**

Applicants are eligible to apply for a subsidised Green Loan if the following criteria have been met:

- The applicant must be the recipient of a valid Assessment Report for the home.
- The applicant must be either the owner of the home or a trustee of the home (as shown on the current title) or listed on the current lease of the home at the time of applying for the Green Loan.
- The applicant must have a taxable income no greater than \$250,000 per annum.
- The applicant is eligible for only one Green Loan per Assessment Report.

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**Note:**

- Where the applicant does not own the Home, they must adhere to their lease agreement in seeking permission from the owner before undertaking any amendments to the property.
- Where the dwelling is owned by an Australian Registered Charity, the applicant must have the full legal authority to apply on the organisation's behalf.
- Other available subsidies and incentives for the same items or actions under other programs do not affect eligibility for a subsidised Green Loan.

**Application Conditions for a Subsidised Green Loan**

To receive a subsidy the applicant must:

- Apply for a Green Loan from a participating Financial Institution within six months of the date of issue of a valid Assessment Report and by 31 March

2013 at the latest. A list of participating Financial Institutions will be published on the Program Website when available.

- Satisfy the criteria of the relevant participating Financial Institution offering the Green Loan.
- Complete and sign a Green Loan Declaration that the Green Loans funds received from the financial institution will only be used for eligible actions listed on a valid Assessment Report.

**Note:**

- Green Loans are loan products developed and offered by participating Financial Institutions. Each Green Loan agreement is a private agreement between the applicant and the Financial Institution. The Department accepts no responsibility in relation to any losses arising from a Green Loan agreement.
- Only one Green Loan is available per Assessment Report.

- If the Green Loan is approved, the Department will pay a subsidy to the Financial Institution to reduce the cost of the Green Loan for the applicant.
- The applicant is responsible for loan repayments according to their Green Loan agreement with the Financial Institution.

**Further Information**

The Program Website contains detailed information for Householders, Assessors and other stakeholders.

Queries about the Program Guidelines or other aspects of the Program should first go to the Program's website at <http://www.environment.gov.au/greenloans/index.html>

For householders unable to access the Program website, or need further information on the Program, a phone based Green Loans Information Service will be established.

## Red Tape Slashed for \$3 billion Education and Housing Projects

The Brumby Government has slashed red tape and streamlined the planning system to secure \$3 billion worth of education and social housing projects and 9,000 jobs funded through the Commonwealth Nation Building and Economic Stimulus Plan.

Planning Minister Justin Madden said the changes would pave the way for the largest number of simultaneous education and housing projects to be undertaken in Victoria's history.

"The Brumby Government is working shoulder to shoulder with the Rudd Government, to take action to stimulate the economy and support Victorian families in tough global financial times," Mr Madden said.

"It will mean that new social housing and school building projects can start sooner, without being held up by red tape. The Government is taking action to ensure this funding stays in Victoria to deliver jobs, homes and nation building projects."

Mr Madden said the new streamlined planning processes for schools will help secure \$1.4 billion of federal funding for Victorian school projects – to help build new facilities like libraries, science and language centres.

"These reforms will mean a significant number of non-government schools will be exempt from the need for a planning permit; so they can start works sooner and secure their share of the federal funding available to Victorian schools," he said.

"Without these measures, some non-government school projects would have taken up to 18 months in the normal planning system preventing them from accessing Commonwealth funding," he said.

Government schools are already exempt from requiring planning permits for buildings and works.

The Victorian Planning Provisions have been amended to make the Minister for Planning the responsible authority for the Social Housing Initiative and Building Education Revolution projects.

Mr Madden also said that for these projects there would be no public notification or review.

"The Social Housing Initiative will see \$1.5 billion of Commonwealth funding providing 5,000 social housing dwellings," Mr Madden said.

The conditions of the funding require that at least 75 per cent of all new social housing projects built under this initiative must be completed by 31 December 2010.

Under the National Partnership Agreement on the Nation Building and Jobs Plan, all State and Territory Governments have agreed to take urgent action to support the timely and effective delivery of key projects and infrastructure funded under the Plan.

Mr Madden said the new planning provisions will be a temporary streamlining measure to support the projects and their access to commonwealth funding and will expire on 30 June 2012.



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# Pink Batts Manufacturer Gears Up to Support \$4 billion Energy Efficient Homes Package

Fletcher Insulation, maker of the iconic Pink Batts, has announced a raft of measures and a multi-million-dollar investment in expanding its operations to help tradespeople and consumers benefit from the Federal Government's \$4 billion Energy Efficient Homes Package.

Senator Mark Arbib, Parliamentary Secretary for Government Service Delivery, formally launched Fletcher's national training program for insulation installers in Sydney late last month.

The Pink Batts Training Program consists of three modules – an Operational Health and Safety White Certificate (a mandatory requirement for Federal Government registration), a one-day refresher training course for existing installers, and a two-day comprehensive course for new installers.

In conjunction with the establishment of the Pink Batts Training Program, Fletcher Insulation also announced:

- An \$8 million upgrade to its Dandenong (Victoria) manufacturing plant to expand capacity;
- Extension of operations at its Rooty Hill (NSW) and Dandenong plants to 24 hours a day, seven days a week, to increase supply of Pink Batts and other ceiling insulation products;
- Creation of 50 jobs, directly related to an expected increase in demand for glasswool ceiling insulation products, consisting of 20 workers in Dandenong, 20 warehouse and distribution employees nationally, and 10 staff at the company's Homebush (NSW) headquarters;
- Investment of more than \$1M in a new call-centre to handle consumer inquiries and direct them to qualified and registered insulation installers.

The training program will be available to assist large numbers of existing and new insulation installers meet Federal Government guidelines for participation in the scheme, with Fletcher Insulation estimating thousands of new installers will enter the market. The curriculum has been developed by Fletcher Insulation and will be delivered in partnership with the National Institute of Training (an Accredited Training Organisation).

The program has been designed to help insulation installers understand the technical, legal and practical requirements of installing insulation under the scheme, including OH&S certification and meeting Australian Standards.

Fletcher Insulation General Manager David Isaacs said: "The Federal Government's Energy Efficient Homes Package will help more than 2.9 million households dramatically cut their energy bills by up to \$400 a year, and reduce their environmental footprints, through the installation of ceiling insulation."

Under the government's scheme, eligible home owners can have ceiling insulation installed worth up to \$1600, with up to \$1000 available to help landlords or tenants have ceiling insulation installed in rental properties.

Mr Isaacs said: "The other important benefit is economic. This economic stimulus initiative is generating thousands of new jobs, many of whom are tradespeople, such as carpenters, electricians and plumbers. It will help them survive the economic downturn by providing them with a fresh outlet for their skills.

"Fletcher Insulation is doing its part to support the government's Energy Efficient Homes Package and is helping get people into work again. Over the next seven months, we expect we will train hundreds of people in more than 80 training courses being held across Australia. This will continue for the duration of the scheme if demand remains, and afterwards. Importantly for consumers, our training and accreditation program will set the benchmark for quality insulation installation. With an accredited Pink Batts installer, home owners can be confident their installation is as high quality and reliable as Pink Batts themselves."

Senator Arbib said: "The Rudd Government's economic stimulus plan is all about supporting jobs by providing work opportunities for small business and tradespeople. Thanks to the stimulus, insulation manufacturer Fletcher Insulation has already created 50 jobs in Victoria and New South Wales as it expands its operations to meet demand for the \$4 billion Energy Efficient Homes Package. We are already seeing jobs being supported throughout the insulation industry, with more than 20,000 Australian homeowners already taking up the offer to install ceiling insulation through the package."

Further information is available by phoning 13PINK, or visiting [www.pinkbatts.com.au](http://www.pinkbatts.com.au).

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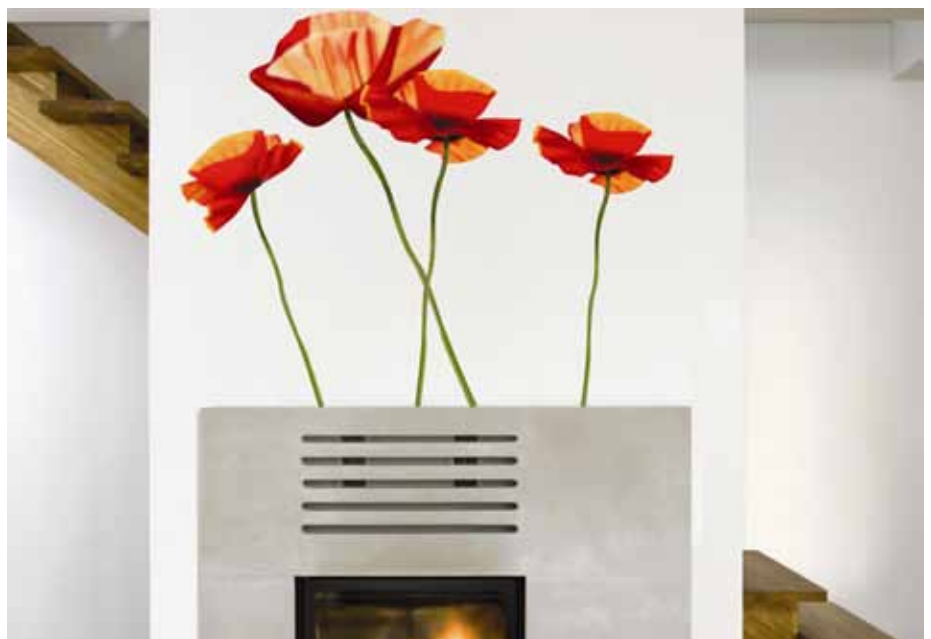
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## Revolutionary New Water Tanks

An innovative flat-pack steel slim-line rainwater tank, AquaClad, has been launched to make saving water easy for any home or property where access is limited.

Created by Waterplex, a company renowned for its creative rainwater solutions, the flat-pack tank comes in a modular design that can be easily carried into a property and assembled on the spot.

As a result, inaccessible areas for rigid tanks such as commercial roof tops or basement areas can now be used for rainwater storage by utilising the AquaClad.

Managing Director of Waterplex, Andrew Waudby said AquaClad was the ideal rainwater solution for urban households. "Never before have form and function blended together so well – the AquaClad has no round corners, allowing for more rainwater to be stored than in traditional metal slim line tanks, and yet it also solves access issues, and it is aesthetically appealing," Mr Waudby said.

Available in two convenient heights (1670mm and 880mm), three different widths and nine different lengths, AquaClad is ideal for placement not only at the side or back of terraces and houses, but also in basements, under floors and decks, and in obscure locations.

The AquaClad is also modular in design, allowing for extra length to be added at any given time and is made with no external bolts on walls or panels.

It is lined with Waterplex's superior Liquidity VLS liner which is made from potable-grade PVC and accredited to the Australian Standard (AS/NZS 4020). This means the water can be safely consumed and is suitable for use inside and outside the home.

Available in the full range of Colorbond colours or natural Zincalume colour, Mr Waudby said: "You can mix and match colours or add our cladding brackets to clad in any number of designer finishes to achieve a personalised designer look with a finish, limited only by your imagination."



Known for its innovative Eco Sac flexible under-house bladder and Reo Sac, a reinforced bladder tank for hidden rainwater, Waterplex has carved a position as Australia's premier creative rainwater storage solution provider.

Mr Waudby added that AquaClad's combination of cost and quality in the current economic climate meant its launch was timely. "In addition, the market is now driven by a legislated need to include rainwater storage in new building and development applications," commented Mr Waudby.

With a 20-year warranty and available in over 50 sizes, the AquaClad is currently being sold through all leading plumbing merchants from \$1164.

For more information call 1300 726 670 or visit [www.aquaclad.com.au](http://www.aquaclad.com.au).

## Businesses Urged to Cash In on the Benefits of Green Buildings

A new joint-funded Rudd and Brumby Government public awareness campaign and a dedicated website will urge Australian businesses to join the green building revolution and boost their productivity.

Building and Plumbing Industry Commissioner and Chair of the World Green Buildings Council, Tony Arnel, said the campaign would help businesses improve their profitability by thinking green when leasing or refurbishing offices.

"The CSIRO estimates that lost productivity from poor office environments costs Australia up to \$21 billion a year," Mr Arnel said. "Green offices make commercial sense because they create a healthier, more productive workplace and employees take less sick leave."

Mr Arnel, who is also a member of the Building Industry Consultative Council, said buildings were responsible for 23 per cent of Australia's total greenhouse gas emissions. "This is why we need this Building Industry Consultative Council initiative to produce information for businesses wanting to invest in green office environments and buildings."

"A green office makes commercial, financial and environmental sense, delivering a healthier and more productive workforce as well as savings on business overheads."

Mr Arnel launched the joint State and Federal government funded campaign with the chief executive of Sustainability Victoria, Anita Roper, at 500 Bourke Street, Melbourne. 500 Bourke Street has undergone one of Australia's largest sustainability refurbishments over the last two years. Features such as rainwater flushing toilets, timer-controlled lighting and efficient heating, ventilation and air-conditioning are expected to generate annual savings of around \$65,000 in water costs and \$600,000 in electricity and gas bills.

"Smart businesses are cashing in on the benefits of green offices, which have features like natural lighting, fresh air and low toxicity furnishings and fittings," Mr Arnel said.

Independent research on Melbourne buildings demonstrated productivity benefits. One before-and-after study of a law firm that moved into a refurbished green office space found a 39 per cent reduction in sick leave and a big jump in billable hours, despite reduced working time. In another building that underwent a green fit-out, productivity increased by 13 per cent.

### BDAV News

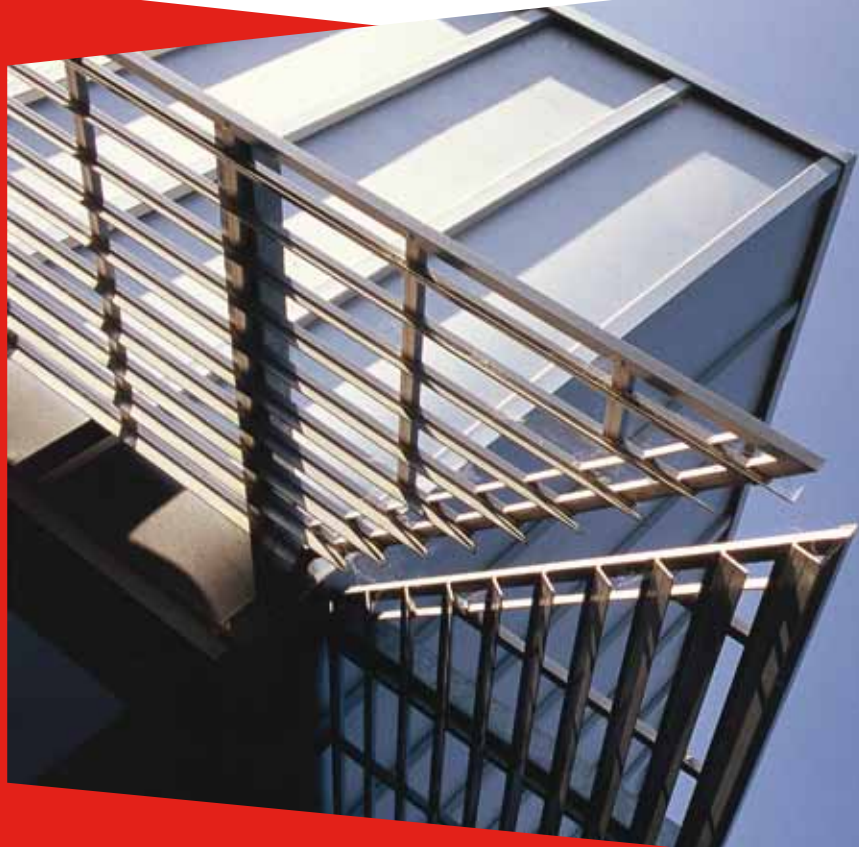
Produced by Assignments Australasia Pty Ltd  
for Building Designers Association of Victoria  
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## BDAV Membership Services

The following membership benefits are available to full members of the Building Designers Association of Victoria:

### Publicity & Promotion of your business:

- > BDAV website listing - to generate referrals for your business.
- > BDAV News & website employment placement listings.
- > BDAV's annual Design Awards competition - to promote your skills & business.
- > Access to the BDAV logo - for membership recognition on your website & stationery.
- > Aligning & identifying your business with the successful "Building Designers ...Design Buildings" campaign.

### Important Information & Advice for you & your business:

- > Advice on legal, contractual & copyright\* issues.
- > Access invaluable publications & reference resources - including:
  - BDAV News
  - Monthly Newsletter
  - BDAV Handbook
  - BDAV Practice Notes.
- > Members only access to relevant industry information on our website.
- > Access to the latest information from the nation's leading suppliers.

### Professional Development for you & your business:

- > Access to Professional Development events at low membership rates - many are free to members\*.
- > Invaluable networking opportunities with other designers.
- > Participation in industry projects, such as our Mentor Program - for longevity of the profession.
- > PI Insurance discounts# through our preferred insurance provider.
- > For country members, invitations to Regional Meetings.

**> Tell your colleagues about the benefits of being a member!**



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\*Advice is of an elementary nature. Anything significantly complex should be referred to appropriate professional advisor. #Subject to conditions  
†BDAV is an approved CPD Provider for the Victorian Building Industry, as administered by the Building Commission.

**Why is new COLORBOND® steel with Thermatech® solar reflectance technology so important?**

Roofing is a key consideration when designing any building to be thermally efficient. That's why Thermatech® solar reflectance technology is included in the specification of all 20 standard colours in the COLORBOND® steel range, at no extra cost.

In hot weather, COLORBOND® steel with Thermatech®

can help reduce peak roof temperatures by up to 11°C and provide an equivalent increase in insulation of up to R1.0. And, compared to roofing materials of equivalent colour with lower solar reflectance, COLORBOND® steel can reduce annual heating and cooling energy consumption by up to 24%\*. That's a breath of fresh air for everyone.

**For information and fact sheets, visit [colorbond.com/thermatech](http://colorbond.com/thermatech) or call 1800 022 999.**

A large, stylized graphic of a blue arrow pointing upwards and to the right, originating from the roof of a building. The arrow has a white outline and a blue fill with a white swoosh, suggesting a path of air or energy. The background is a clear blue sky with a few white clouds. Below the arrow, the roof of a modern building with a grey corrugated metal roof and a white chimney is visible.

**CLIMATE CONTROL STARTS HERE**