



# Building surveying resources in rural Victoria

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W E I R  
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# Abbreviations and acronyms

The following definitions and abbreviations are used in this document.

<b>Act</b>	<i>Building Act 1993 (Vic.)</i>
<b>BS-L</b>	Building Surveyor - Limited
<b>BS-U</b>	Building Surveyor - Unlimited
<b>FTE</b>	Full Time Equivalent
<b>IN-L</b>	Building Inspector - Limited
<b>IN-P</b>	Building Inspector – Pool Safety
<b>IN-U</b>	Building Inspector - Unlimited
<b>MBS</b>	Municipal Building Surveyor
<b>PBS</b>	Private Building Surveyor
<b>RBS</b>	Relevant Building Surveyor
<b>OSBS</b>	Office of the State Building Surveyor
<b>POPE</b>	Place of Public Entertainment
<b>RCV</b>	Rural Councils Victoria
<b>Regulations</b>	<i>Building Regulations 2018 (Vic.)</i>
<b>VBA</b>	Victorian Building Authority
<b>VMIA</b>	Victorian Managed Insurance Authority



# Executive Summary

There have been numerous reports to governments which have recognised that building surveyors are an aging occupation and there is a shortage of new building surveyors seeking registration.<sup>1</sup> This issue is exacerbated in rural areas with Rural Councils finding it very difficult to employ or contract Municipal Building Surveyors. This report is the first of its kind to comprehensively examine the capacity of the building surveying industry in Victoria with a focus on the current position of Councils and the Municipal Building Surveyors appointed by them in their execution of functions under the *Building Act* 1993 (Vic.). The conclusions in the report are based on data gathered from various sources in relation to:

- building permits issued in Victoria;
- the involvement of private building surveying firms in issuing building permits and carrying out inspections both in metropolitan areas and in rural and regional areas;
- the demand on Councils for other functions and enforcement activities to be carried out by them; and
- the current and predicted future financial resourcing and staffing capacity of Councils and MBSs to carry out those functions and activities.

Data was obtained from the Victorian Building Authority (VBA) regarding building permits issued in Victoria over the last 5 years and by whom they were issued. In addition, a survey was circulated to Councils and to private building surveying firms to gather detailed information.

A total of 309 responses to the survey were received. This included at least one registered building surveyor or inspector from every Victorian municipality and MBS or Manager participation by 64 of the 79 Victorian Councils. The Council building departments and PBS firms that responded were made up of over 880 people providing building surveying services to Victorians. 280 of these are registered building surveyors, which is about 35% of Victoria's registered building surveyors.<sup>2</sup> A further 129 are qualified but not registered, 69 were building surveying students and 246 were providing administrative support.

If we assume the sample size surveyed reflects approximately 35% of the building surveying profession in Victoria (based on the total number of registered building surveyors in Victoria), there are a total of 2,514 people engaged in the provision of building surveying services in Victoria or registered to do so. Around 368 of these are qualified but not registered and around 197 are studying building surveying.

Rural councils are much more likely to have a contracted MBS (58%), with 80% of Rural Councils having an MBS working part time. In contrast, 25% of Regional Councils contract their MBS, with 55% of these councils having a part-time MBS. 90% of Metro Councils employ their MBS and 97% of Metro Council MBSs are engaged on a full-time basis.

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<sup>1</sup> Shergold and Weir, Building Confidence Report, 2017; Expert Panel on Building Reform Stage One Report (Rec 7) , Building Surveyors and Inspectors Salary Surveys, Planned Resources; Michael Lambert, Independent Review of the Building Professionals Act 2005, Oct 2015

<sup>2</sup> The VBA's 2023-24 Annual Report states that there were 790 Building Surveyors registered as at 30 June 2024.



On average, Metro Council building departments have 9.6 FTE staff, Regional Councils have 4.3 FTE and Rural Councils have 2.5 FTE. About half of Council staff across all Councils are contractors, with these contractors performing about 28% of the Council department's work. Whilst the numbers reflect current staffing levels, across all Council areas 40% of Councils have vacancies, with 42% in Metro, 8% in Regional and 39% of Councils in Rural areas with vacancies.

Less than 50% of Rural MBSs intend to retire within 10 years, whereas for Metro and Regional Councils this figure is over 60%. For non-MBS council officers, about one third currently working in Rural Councils intend to retire within 10 years (for Metro this increases to 39% and for Regional Councils only 8%)

For Council building surveyors and inspectors that are not an MBS, about 430% (30) of these would like to be an MBS and 57% of those wish to do so within 3 years. In contrast, only 20% of registered practitioners working outside Councils aspire to become an MBS.

Most people working in Council building departments have no intention to leave to work in the private sector, although the percentage likely to leave is higher for Rural Councils at 42% (Metro is 24% and Regional is 33%). The reverse is also true for those working in PBS firms, with only 17% of those working in the private sector showing an interest in working in Councils.

Around 50% of those working in Councils have an interest in moving to a regional or rural council. The most common factor discouraging registered practitioners from seeking employment in regional or rural councils are the proposed salary not meeting expectations (52%) and no desire (24%).

The proportion of Councils issuing building permits is similar for Metro and Rural Councils (50% and 44%) but only 33% of Regional Councils issue building permits. Even though a reasonable percentage of councils are issuing permits, the vast majority of building permits are issued by PBSs – 96.5% for Metro, 98.1% for Regional and 86.6% for Rural Council areas.

A very large proportion of what an MBS or a council officer does is desk based. In Rural areas the MBS and Council building department staff spend about 70% of their time working from their desktop.

The majority of respondents to the survey said their workloads exceeded their capacity. The reported excess of workload over capacity was greater for Rural Councils at 44%, compared to Metro (35%) and Regional (20%). Based on this self-assessment, Rural Victoria requires an increase in capacity within building departments of 44% or on average, an additional 1.1 FTE in staff.

Rural (and Metro) Councils spend over 20% of their time and resources responding to illegal building work (compared to 15% for Regional Councils). 18% is spent on permit issuing functions (higher than Metro 7% and Regional 6%). Pool barrier enforcement and report and consent takes up a further 13% each.

The services provided by PBS firms in Rural and Regional areas are mostly in acting as the RBS. Barriers to providing services such as distance and resourcing limitations were cited as a reason for this, as was their services not being sought. Inspection services in Rural and Regional areas are mostly carried out by locally based contractors. Inspection costs are similar for Rural and Regional areas but the cost of RBS services from a PBS is higher in Rural areas than in Regional areas.



Other observations, which are made based on the data, discussions with stakeholders or own experience acting for local council building departments, are summarised as follows:

- (a) The collection and analysis of relevant data relating to MBS functions is made significantly more difficult by the fact that there is no centralised repository of data relating to MBSs and their work.
- (b) There is an unnecessary complexity in relation to delegations and authorisations by council and MBSs for powers and functions under the Act.
- (c) Insurance cover for contracted MBSs and others assisting an MBS who are not employees of Councils need to be resolved.
- (d) The current categories and classes of registration for building surveyors and inspectors do not align to the nature of buildings and work in rural council areas which creates a barrier to registration for those wishing to work in Rural Council building departments.
- (e) The VBA collects a levy on all building permits based on the value of building work but none of this is given to local councils, even though councils are integral to the overall administration and enforcement of the regulatory framework. An allocation of building permit levy to Councils is warranted, as is greater accountability from Councils to ensure statutory fees and any other funding is being directed to the delivery of powers and functions under the Act.
- (f) Reforms are required to enable greater efficiency in local council building departments. The survey shows that, other than issuing building permits, the activities that Rural councils spend the most time on are: illegal building work, report and consent and swimming pool barrier enforcement. All three of these areas require reform to enable greater efficiency in the exercise of MBS and Council functions.
- (g) Some Rural Councils are engaging in various forms of contracting or shared services models of resourcing their MBS and other building staff roles. Whilst this approach is useful in ensuring that some MBS functions can be fulfilled in the municipality, there appears to be a significant variation in the way the resourcing is structured, financed and governed. Some arrangements may be working better than others in terms of providing value for money and sufficient services to fulfil the requirements of the Act.
- (h) There are an increasing number of large festivals and other public events being held in regional and rural areas. These are complex and require significant skills and resources to assess and approve applications which can overwhelm smaller council building departments in rural areas. Consideration ought to be given to whether the approval of POPE permits for rural areas ought to become a function of the VBA.
- (i) Those who work in Rural Councils, whether they be the MBS, building surveyors or inspectors or administrative staff face difficulties in carrying out their work under the Act, whether in relation to the issuing of permits or the carrying out of enforcement work. Staff may experience a significant amount of opposition and criticism which can be difficult to manage when they live in the municipality and their role is commonly known amongst residents.



This report makes 10 Recommendations in relation to the above issues.

This report also proposes 5 potential models for delivery of MBS services to Rural Councils as follows:

- (a) MODEL 1 - Sharing of resources between multiple Councils facilitated by RCV.
- (b) MODEL 2 - Agreement between councils facilitated by State government
- (c) MODEL 3 – Services delivered through business units
- (d) MODEL 4 - The replacement of MBS functions for individual councils with a regional hub model
- (e) MODEL 5 - Replacement of all Rural Council MBSs with a single Rural Council Services body

Detailed discussion and further development of preferred models should be undertaken, including costing comparisons, consultation and SWOT analysis. This work will be undertaken as part of phase 2 of this work.





## Snap shot of key statistics

	Rural Councils	Regional Councils	Metro Councils
Number of Councils in each group	34	15	29
Proportion of Councils that have a contracted MBS	58%	25%	6%
Proportion of Councils that have a part time MBS	71%	55%	3%
Number and proportion of permits issued in each region in 2023-24	13,764 (14%)	17,772 (18%)	65,438 (68%)
Average revenue per council generated by building activities	\$220,607	\$540,667	\$1,076,596
Total number of FTE reflected in survey (375.5 were at PBS firms)	86	62	356
Average number of FTE staff	2.3	4.3	9.8
Proportion of Councils issuing building permits <sup>3</sup>	44%	33%	50%
Proportion of building permits issued by PBSs 2019-2024	86.6%	98.1%	96.5%
Self-assessment of percentage by which workload exceeds capacity	43%	20%	35%

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<sup>3</sup> Based on our survey data, rather than on building levy data.

# Summary of Recommendations



## Recommendation 1

That the VBA collaborate with Councils to collect and maintain data about the identity of all MBSs and delegates of MBSs and, if necessary, that there be a statutory mechanism created to formalise this data collection arrangement.



## Recommendation 2

That the Government review and where necessary amend the Act or LGA to reduce the complexity associated with delegations and authorisations by contracted MBSs noting many functions performed by an MBS are those of council.



## Recommendation 3

That the position on insurance coverage for contractors delivering MBS services to Councils (whether or not they are appointed as the MBS or assisting the MBS as a delegate or authorised person) be that they are covered by Council's public liability insurance.



## Recommendation 4

The VBA and State Government consider whether registered building surveyors or inspectors can be exempted from the requirement to hold insurance, provided they only work as staff or contractors to Councils (assuming Recommendation 3 is implemented).



## Recommendation 5

That the VBA and government develop a strategy for the creation of classes of registration, or conditions that align to the scope and nature of buildings in rural council areas so that a clear pathway for registration to become an MBS is available to those wanting to work in Rural Council areas.



## Recommendation 6

That the Government consider reforms to provide for distribution of a proportion of the building permit levy to councils to fund their building department activities.

A review of all statutory fees should be undertaken to ensure that the fees collected are adequate for the work required to administer each statutory application or function.

Such reform should come with an accountability mechanism to ensure this funding is used only for building department work.

(Note: The Act already envisages oversight of council building functions by the State Building Surveyor and this is currently proposed through the development of municipal building control plans.)



## Recommendation 7

That reforms be made to the Act and Regulations with a view to enabling councils and MBS to perform their functions more efficiently. Examples include

- A. In relation to illegal building work, there should be a statutory process for resolving work without a permit which includes, for example:
  - (a) a specific type of enforcement notice that can be issued which enables the MBS to require the owner to seek reports to identify and rectify non-compliance;
  - (b) infringements to be issued to owners with penalties that act as a deterrent;
  - (c) a notation on title to provide transparency to potential purchasers (which would also act as a deterrence to owners).
- B. In relation to report and consent:
  - (a) a review to ensure that the number and nature of triggers for seeking report and consent remains reasonable and that any proposed reforms to support housing supply policies do not increase the volume of report and consent applications;
  - (b) a shift of the exercise of these council (not MBS) functions involving siting matters to planning department officers, where appropriate.
- C. In relation to swimming pool barrier enforcement, we understand that amendments to regulations to iron out problems raised by the VMBSG and make the administration and enforcement process more efficient were drafted some years ago but have not been enacted. These improvements need to be progressed.



## Recommendation 8

As part of the State Government's review of the POPE regime, consideration ought to be given to whether the approval of POPE permits for rural areas ought to become a function of the VBA.



## Recommendation 9

That the State Government give consideration to whether the Act and Regulations should be amended to enable building enforcement to be carried out at a regional, rather than municipal, level in Rural areas, so that the decision-makers are more separate and independent of the municipality affected by those decisions.



## Recommendation 10

That the State Government give consideration as to whether it could provide monetary or governance support to joint resourcing arrangements for Rural Councils or to whether the Act and Regulations should be amended to more easily enable this sort of resourcing by groups of Councils.



## Scope/Structure of report

Weir Legal & Consulting were engaged to:

1. gather and analyse data regarding the following matters:
  - the availability, both current and anticipated of building surveying staff who are qualified and willing to take on MBS roles in Victoria;
  - the availability, both current and anticipated, of building inspectors;
  - the number of PBSs located in or providing services to rural and regional areas;
  - the possibilities and impediments to recruiting MBS and other registered building surveyors and inspectors to work in rural and regional areas;
  - the average cost of building surveying services.
2. prepare some solutions for consideration, including how MBSs could be engaged differently or a model for sharing MBS between municipalities.

As specified in the briefing paper dated 11 November 2024, prepared in relation to the data collection phase of this project, for the purpose of analysis, the municipalities in Victoria were divided into three categories: Metropolitan and Interface Councils (referred to in this report as Metropolitan Councils), Regional and other Rural Councils (referred to in this Report as Regional Councils) and the rural Councils from the RCV Group (referred to in this report as Rural Councils). The list of Councils and their groupings is set out in Appendix 1 to this Report.

We have carried out an analysis of the survey data obtained, together with the building permit data from the VBA and the other information obtained to prepare this Report. The Report sets out:

- (a) at **Part A**, how the relevant data was collected;
- (b) at **Part B**, our conclusions derived from consideration of the data;
- (c) at **Part C**, other observations and recommendations; and
- (d) at **Part D**, examines potential models for how Rural Councils can carry out their statutory functions in the future.



## Part A – The data collected

### 2. Preparation of the survey

- 2.1 The survey set out questions for four different categories of survey participant, as follows:
  - (a) MBS/Council department manager
  - (b) Council building surveyor/inspector
  - (c) PBS business operator
  - (d) Registered building surveyor/inspector not currently working for Council
- 2.2 With the assistance of the RCV Secretariat, the survey was compiled as an online survey. Participants were only required to answer questions relevant to their category. The survey was distributed with the assistance of the VBA, the VMBSG, MAV, LGPro and RCV and was sent to registered building surveyors and building inspectors in Victoria. The time for completion of the survey was extended several times to the end of January 2025, in order to ensure that sufficient numbers completed the survey. WLC also sent emails to individual MBSs to ensure that sufficient numbers of MBS completed the survey, as initially quite a number of metropolitan MBS did not complete the survey.
- 2.3 By the time the survey closed at the end of January 2025, 309 practitioners had completed the survey. Of those 309 practitioners, 27% (85) were Managers of a Council building department or an MBS, 27% (84) were registered building surveyors or inspectors working at a Council, 22% (67) were operators of a private building surveying firm and 24% (73) were registered building surveyors or inspectors who don't work at a Council. At least one registered building surveyor or inspector from every Victorian municipality participated. There was MBS or Manager participation by 64 of the 79 Victorian Councils.
- 2.4 A total of 309 responses to the survey were received. The Council building departments and PBS firms that responded were made up of 880.5 FTE staff providing building surveying services to Victorians. 280 of these were registered building surveyors, which is about 35% of Victoria's registered building surveyors.<sup>4</sup> A further 129 were qualified but not registered, 69 were building surveying students and 246 were providing administrative support.
- 2.5 Of the 880.5 FTE staff identified as working at Councils and at PBS firms, 356 of those worked at Metropolitan Councils, 62 at Regional Councils and 86 at Rural Councils and 376.5 at PBS firms.
- 2.6 If we assume the sample size surveyed reflects approximately 35% of the building surveying profession in Victoria (based on the total number of registered building surveyors in Victoria), there are a total of 2,514 people engaged in the provision of building surveying services in Victoria. Around 368 of these are qualified but not registered and around 197 are studying building surveying.
- 2.7 Some of our survey questions were not answered by many participants. We have not referred to that data in this Report as accurate conclusions can't be drawn where there

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<sup>4</sup> The VBA's 2023-24 Annual Report states that there were 790 Building Surveyors registered as of 30 June 2024.



are a small number of responses. We also observed some anomalies in the way that some questions were answered, which may be evident in some of the data included in this Report. Despite that, we consider that the survey answers provide a useful general guide to the matters that were the subject of the survey.

### 3. Other information sources

#### 3.1 In addition to the online survey, we also:

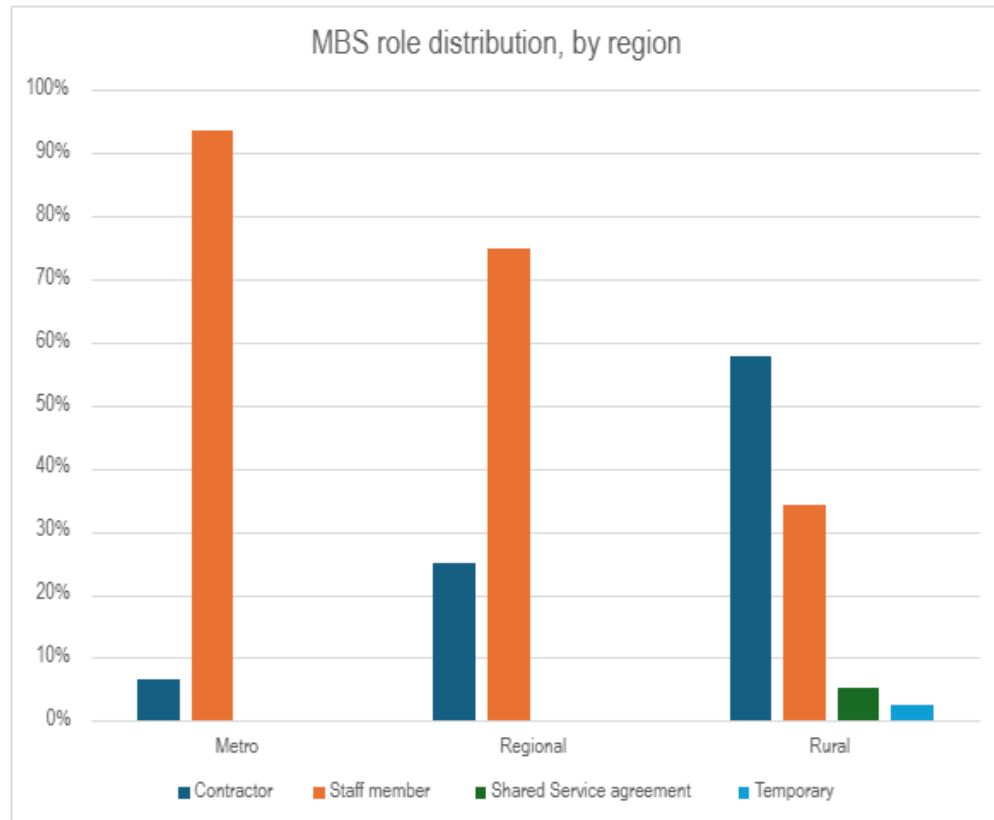
- (a) spoke individually with some practitioners, to obtain extra insights from them;
- (b) obtained data from VBA building permit data levy records regarding the type and number of building permits issued and by whom they were issued;
- (c) reviewed and took into account data previously collected by VMBSG and share with us on building surveyor employment and career aspirations, as collated in the report entitled *Building Inspectors & Building Surveyors Salary Survey 2024* by Planned Resources (**VMBSG Report**); and
- (d) reviewed and took into account the data and analysis set out in the VBA's report dated March 2023 entitled '*The regulation and education of building surveyors in Victoria*' (**VBA Report**).

#### 3.2 In relation to the data provided by the VBA, it is important to note that the data levy records may not always identify whether a building permit was issued by a MBS or a PBS, as this is not information which is required to be provided to the VBA, whether upon the issue of a building permit or otherwise. The VBA has used other relevant information to deduce which permits were likely to have been issued by an MBS – however, due to the need to identify MBS permits in this way, it is possible that there are MBS who have not been able to be identified in the VBA dataset and who are therefore not represented within the data.

## Part B – Conclusions derived from the data

### 4. How Councils are currently staffing the MBS role

- 4.1 Overall, 62% of Council MBSs are employed, with 33% contractors to Council. In the majority of cases (58%), Rural Council MBSs are contractors, whereas Metro Councils employ their MBS in 94% of cases. 75% in Regional Councils also employ their MBSs.



- 4.2 On average, over 40% of MBS are engaged on a part time basis (42.3%), with 57.6% working full time. For Metropolitan Councils, 97% of MBSs are engaged full-time. This reduces to 55% for Regional Councils and to 21 % for Rural Councils.
- 4.3 Where the MBS is not full-time, 35% (11) of survey respondents stated that this was because Council could not afford a full-time MBS.
- 4.4 The second most common reason in the survey, at 27% (9), for Councils to not have a full-time MBS, was that Council chose not to engage the MBS on a full-time basis (as distinct from not needing one full-time or not being able to find one). A further 18% (6) said they did not need a full time MBS and 15% (5) said they cannot find a full time MBS. The results suggest that a significant number of Councils are making a strategic choice not to prioritise funding a full-time MBS. This conclusion is reinforced by the discussions we had with various practitioners and with some comments in the survey to the effect that some Councils are 'not interested' in carrying out building enforcement and actively choose to not prioritise funding that work.
- 4.5 The decision not to fund a full-time MBS is likely to then have a consequent impact on the manner in which the MBS is engaged – where the MBS is only working part-time, they are more likely to be engaged on a contract basis than as an employee, as this will



enable them to more easily carry out other roles for the remainder of their working week, whether that be other MBS roles or private RBS or consulting roles.

- 4.6 The VMBSG Report identified that the average salary for an MBS in 2024 was \$191,132 (full-time) and that the expected salary to source new candidates was \$216,821.00. The VMBSG Report categorised municipalities as either Metro or Regional (that is, it did not distinguish between Regional and Rural areas as this Report does). The report noted that:
- (a) for Metro Councils, the average 2024 salary for MBSs was \$208,286 and expected salary to source a new candidate would be \$227,036; and
  - (b) for Regional Councils, the average 2024 salary for MBSs was \$171,920 and the expected salary to source a new candidate would be \$181,607.

- 4.7 Where there is a current shortage of BS-U registered practitioners, and where the data shows that a high proportion of MBSs will retire within the next 10 years (set out later in this Report) it can be anticipated that the salary for MBSs will continue to rise, as a result of demand exceeding supply. This is more so for MBSs in rural and regional municipalities, given the barriers to senior and experienced metropolitan BS-U practitioners moving to rural or regional areas to take up MBS roles, as set out in below in this Report. This would likely increase the extent to which Councils take the view that they cannot afford to fund a full-time MBS.

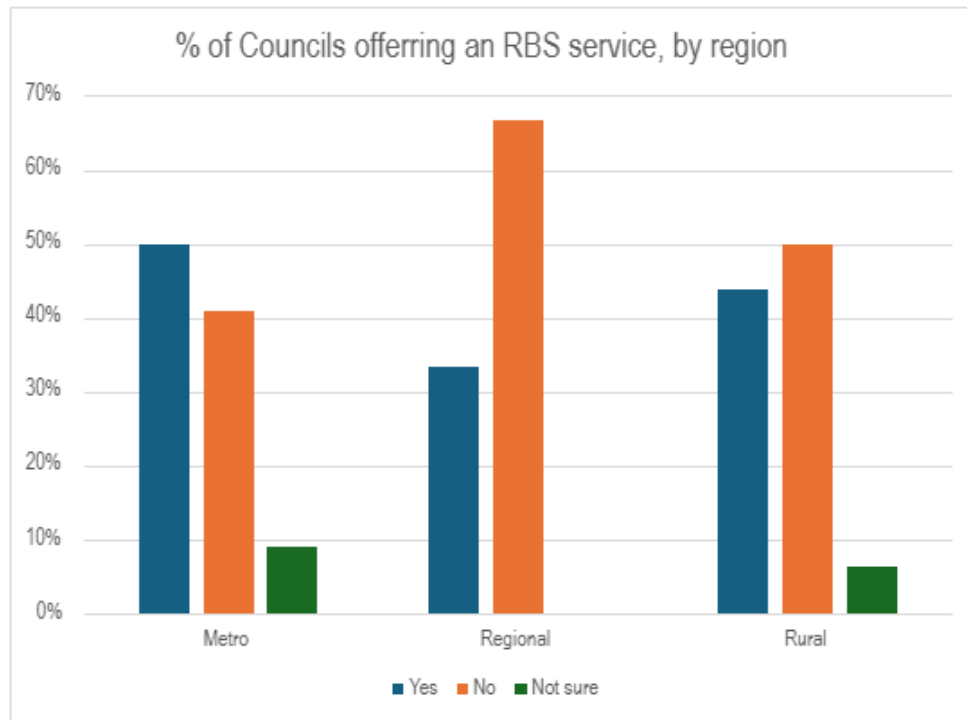
## 5. The size of Council building departments

- 5.1 On average Metro Councils have 9.6 FTE, Regional Councils have 4.3 FTE and Rural Councils have 2.5 FTE staff.
- 5.2 There are 18 Councils that only have only 1 FTE staff in their building department. 15 of these were Rural Councils. 29 Councils have between 2 and 5 FTE, 19 have 6-10 FTE, 8 have 11-14 FTE and 6 have more than 15 FTE.
- 5.3 The survey shows that there are 172 registered building surveyors working in Council building departments. There are 150 who are not registered. Of those, 31 are studying building surveying and 53 are qualified building surveyors.

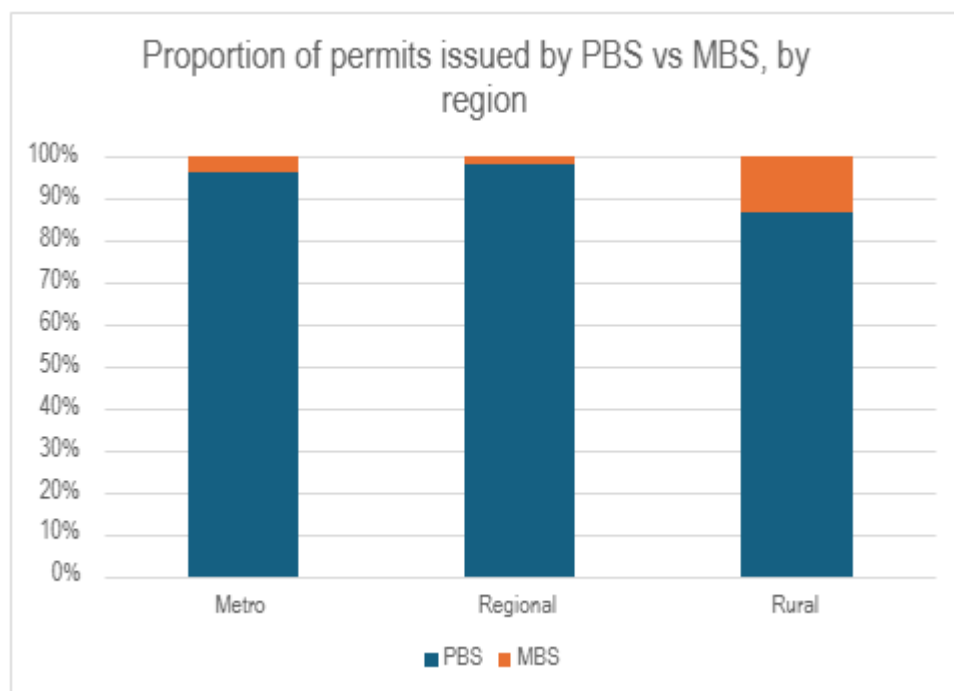
## 6. Whether MBS are issuing building permits

- 6.1 In 2023-24 there were 96,974 building permits issued in Victoria. Of these 68% (65,438) were issued in Metro Council areas, 18% (17,772) in Regional Areas and 14% (13,764) in Rural Areas.
- 6.2 It appears that less than 50% of Councils in Victoria are issuing building permits. Around 50% of Metropolitan Councils issue permits, but that number drops to only 33% for Regional Councils and 44% for Rural Councils (with 6% of respondents for Rural Councils being unsure as to whether building permits are issued).



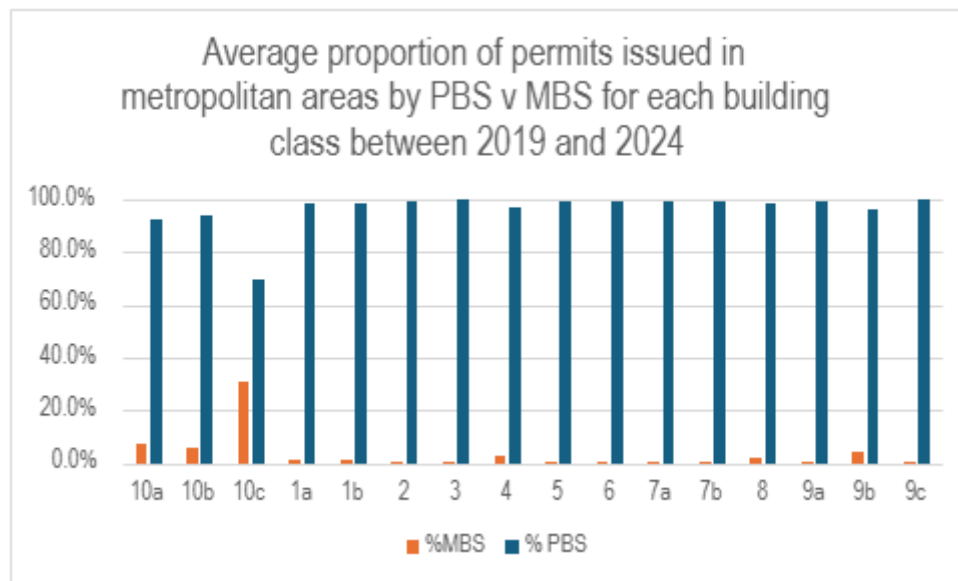


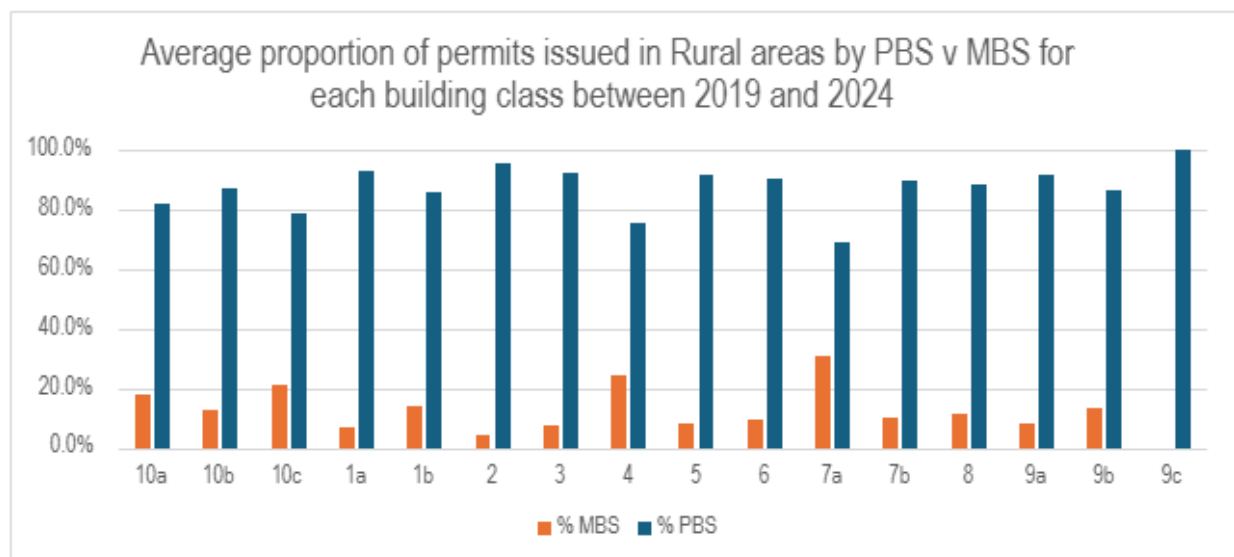
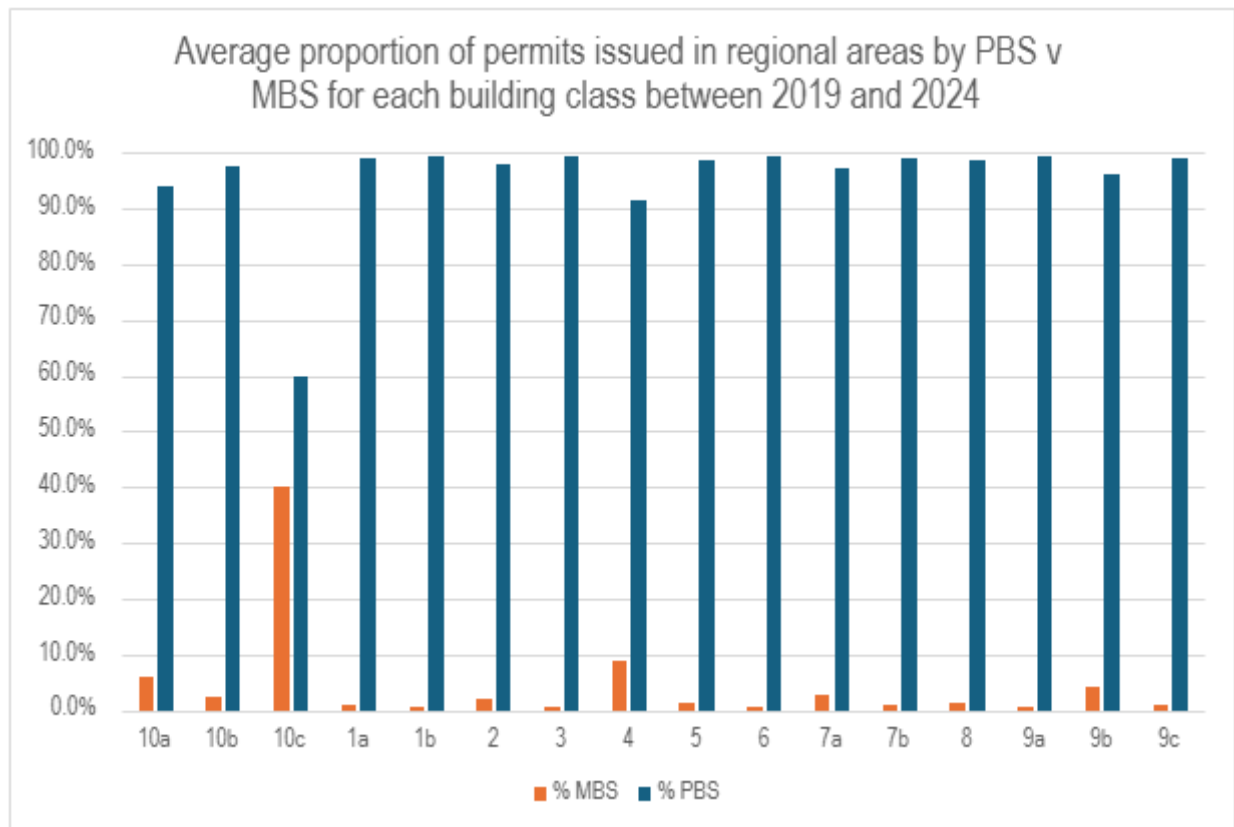
- 6.3 The major reason given by Councils for a decision not to offer RBS services is insufficient resources.
- 6.4 The VBA data shows that where MBSs are issuing building permits, the actual number of permits issued is very low compared to PBSs. This is the case in each of Metropolitan, Regional, and Rural areas. MBSs in Rural areas issued 13.6% of permits, Metropolitan MBSs issued 3.48% of permits and Regional MBSs issued 1.88% of the total permits issued. We assume that the greater proportion of building permits issue by Rural Councils is due to the lack of available PBSs in more remote parts of Victoria.

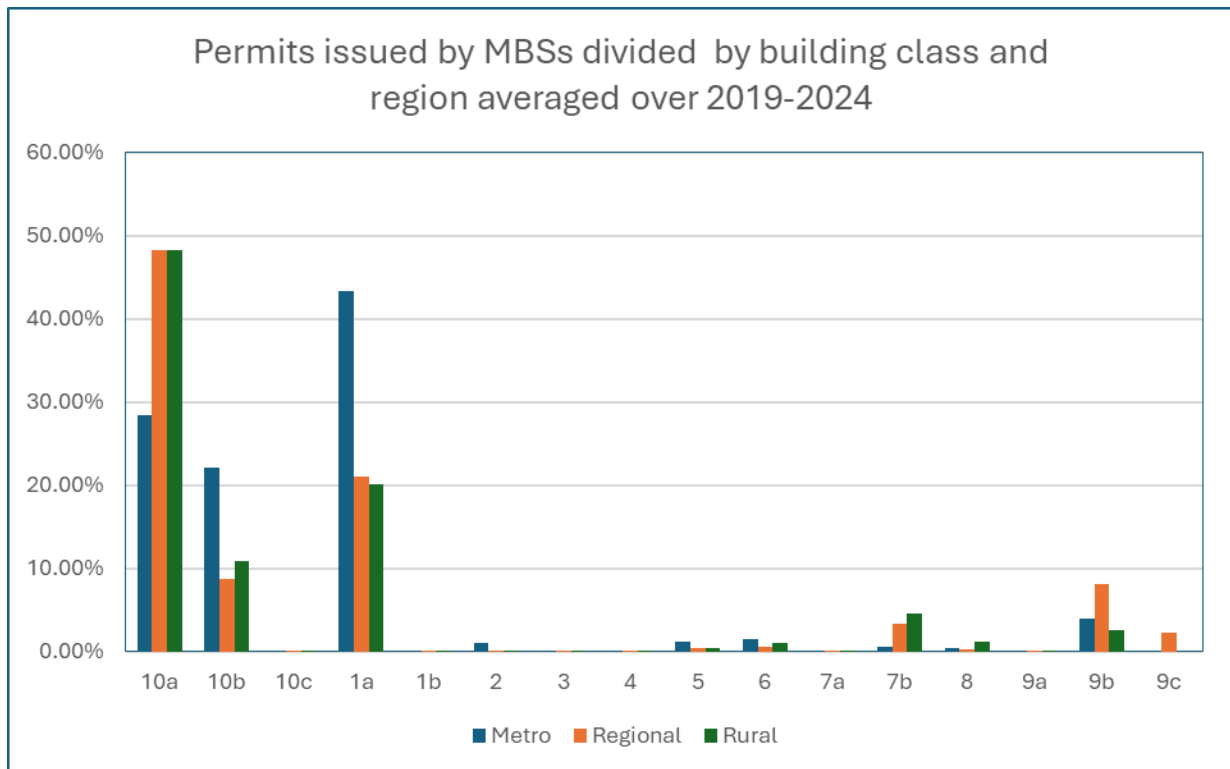




- 6.5 The VBA data provided in relation to building permits issued shows that across all areas, class 1a buildings are the most common type of buildings for which a building permit is sought, irrespective of whether it is a PBS or MBS who is issuing the building permit.
- 6.6 The data also shows that in Metropolitan areas, MBS issue a larger proportion of class 10a and 10b permits (e.g. fences, sheds, carports, pergolas and the like), suggesting that they are more likely to issue building permits where the building work is for a standalone class 10a or 10b building. This is more pronounced in in Regional and Rural areas, where class 10a buildings constitute almost 50% of building permits issued by MBSs.
- 6.7 It isn't surprising that, in Rural and Regional areas where more agricultural work is carried out, that the MBS is called upon more often to issue building permits for class 10a buildings (farm sheds, storage sheds and the like).







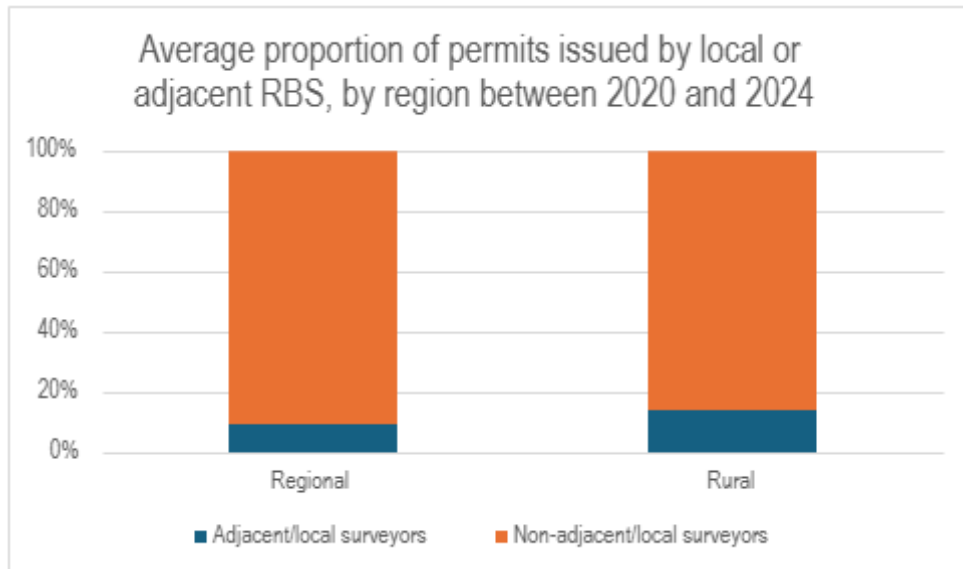
6.8 In considering the building permits issued and the type of building work to which they related, we reviewed the data to determine how many building permits were issued for work in the same municipality as the location of the RBS or by an RBS in an adjacent municipality (which we defined as a municipality sharing a boundary with the municipality in which the building work was carried out).

6.9 The data showed that that:

- (a) for Regional areas, only 9% of permits were issued by an RBS located in the same or adjacent municipality; and
- (b) for Rural areas, 14% of permits were issued by an RBS located in the same or an adjacent municipality.

6.10 We assume that a fair proportion of the building permits issued within the same municipality will be permits issued by the MBS for that municipality. Overall, the data shows that there is not a strong correlation between the location of the RBS and the location of the building work. This is consistent with:

- (a) the fact that many Councils do not offer an RBS service;
- (b) the fact that PBSs are issuing the vast majority of building permits; and
- (c) the fact that most PBS firms do not have offices located in Rural or Regional areas (see section 12.1 below).



6.11 This inevitably has an impact on the way in which mandatory inspections are carried out for building work. Where the RBS and their staff are not located in or adjacent to the municipality, those inspections will inevitably be contracted out to third-party inspectors where the building work is carried out in rural or regional areas, as it is not cost-effective to send an employee inspector to drive long distances to the location of the building work to carry out an inspection. This is confirmed by the data provided by PBS firms (see section 12.10 below).

## 7. How practitioners are carrying out their work

7.1 The degree to which MBS functions are delegated varies according to location. In Metropolitan areas an average of 63% of MBS functions are delegated, dropping to 52% for Regional areas and 41% for Rural areas. It seems likely that the lower rate of delegation in Regional and Rural areas is correlated with having fewer staff to delegate to.

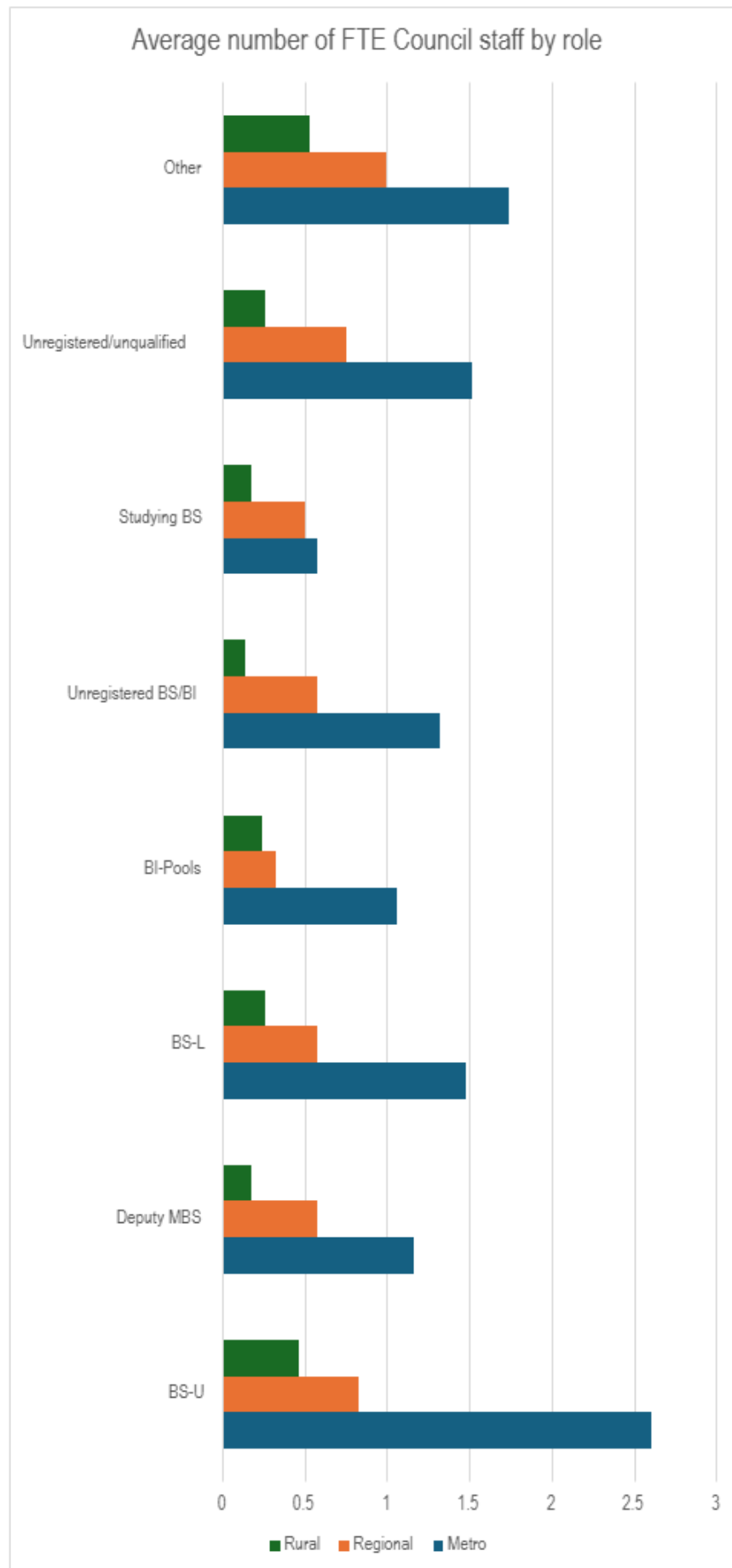
7.2 The percentage of time spent by an MBS undertaking their work from a desktop as opposed to on-site exceeds 70% as an average across all areas. Metropolitan MBSs spend an average of 75% working from their desktop. This increases to 83% for Regional MBSs and drops to 68% for Rural MBSs. The slightly lower rate for Rural MBS is likely to be linked to the lower staffing levels at Rural Councils with the result that the MBS may need to carry out more on-site work and the need to travel longer distances for any on-site work that is required.

7.3 The time spent by Council building surveyors and inspectors working from a desktop is, unsurprisingly, lower than for MBSs. Metropolitan Council practitioners spend an average of 67% of their time working from a desktop. The rate drops to 62% for Regional Council practitioners and increases to 71% for Rural Council practitioners. The high rates of working from a desktop within Rural Councils is likely to be caused at least in part by the fact that staffing issues make on-site work more difficult, given that Rural Councils:

- (a) have greater distances to travel to carry out on-site work;
- (b) have significantly fewer staff;

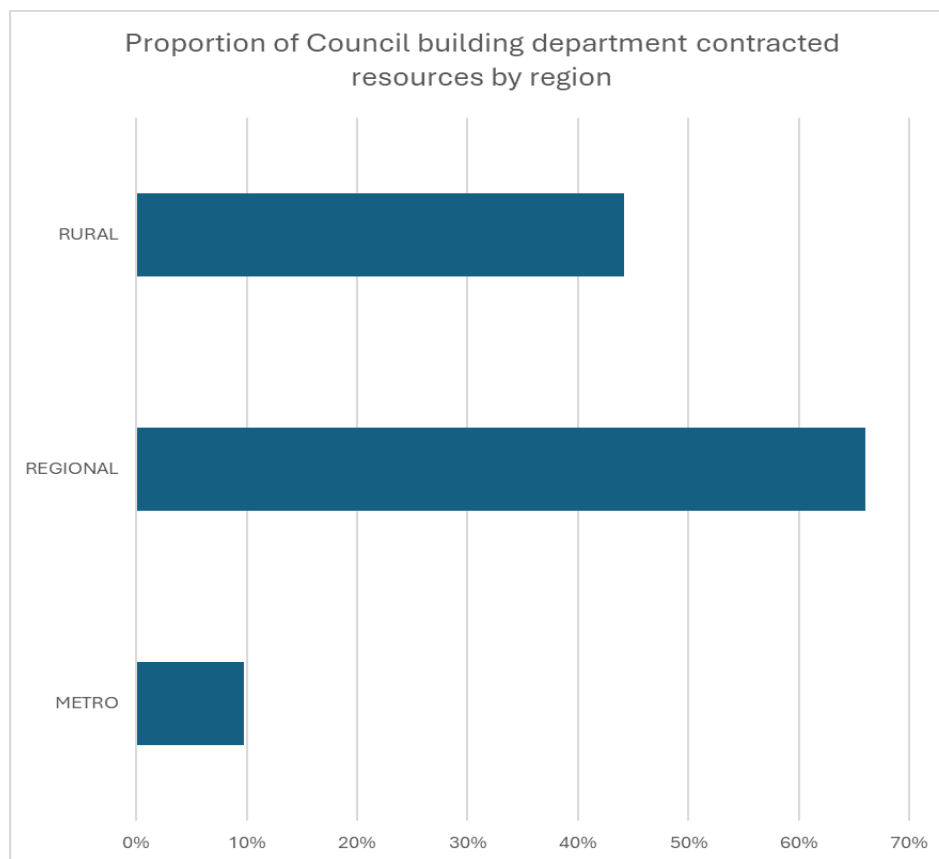


- (c) have a greater number of vacancies for staff; and
  - (d) experience delays in being able to fill those vacancies.
- 7.4 By contrast, building surveyors and inspectors not working in Councils spend an average of 55% working from their desktop. This reflects that 90% of those respondents are carrying out inspections. Those respondents are more likely to have capacity to carry out inspections and to be working closer to where the relevant building work is being carried out and accordingly be able to attend inspections personally.
- 7.5 The average number of staff (other than the MBS) in each category of registration at Councils varies between areas. The data shows that there are less than 1 FTE Deputy MBS, BS-U (presumably the same person as the Deputy MBS) and BS-L on average at Regional and Rural Councils. Metropolitan Councils fare somewhat better, with an average of 2.6 FTE for the BS-U role, 1.2 FTE for Deputy MBS and 1.5 FTE for BS-L.



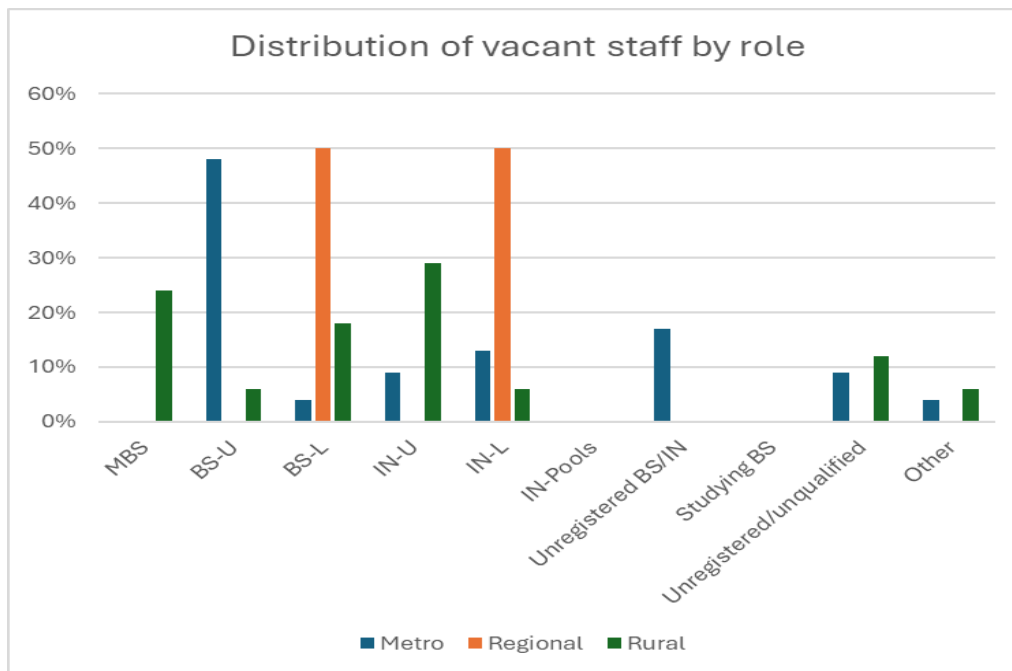


- 7.6 The data also shows lower numbers of staff who are qualified but not registered practitioners. This is different to the position at PBS firms, where qualified but not registered practitioners are utilised with greater frequency.
- 7.7 There is a considerable difference between the different types of Councils in terms of whether they use contractor staff rather than employed staff. 63% of Metropolitan Councils use some contractor staff, compared to 31% of Rural Councils and 17% of Regional Councils. However, whilst Metropolitan Councils are more likely to utilise contractor staff, they make up a much smaller proportion of the total staff than for Regional and Rural Councils, no doubt due to the fact that the total staffing for most Regional and Rural Councils is very small. The types of roles for which contractor staff is used is fairly evenly spread across the registered practitioner categories, with a slight increase for the BS-U category.

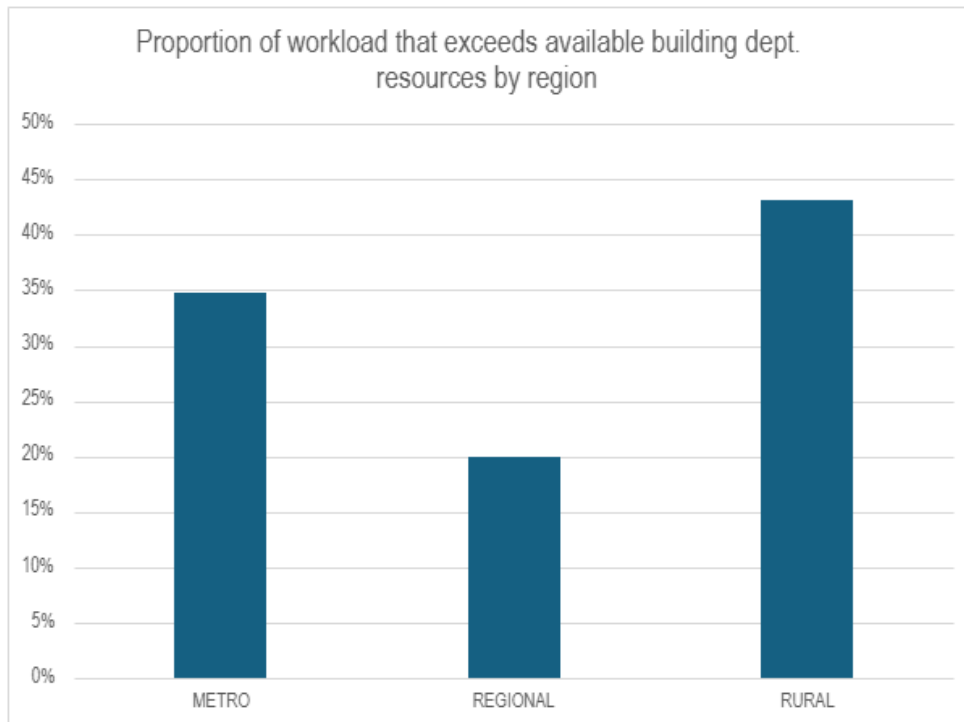


- 7.8 There are significant rates of vacancies for Council roles in all areas. 42% of Metropolitan Councils currently have vacancies. This drops to 39% for Rural Councils and only 8% for Regional Councils. We assume that this reflects the lower available staffing budgets for Regional and Rural Councils but also reflects that it may be easier to recruit staff to Regional Councils which are not as distant as some Rural Council locations.
- 7.9 The types of positions that are currently vacant vary between Council areas. For Rural Councils it is clear that there are vacancies for and difficulties in recruiting MBS roles. For Metropolitan Councils, the greatest vacancy is for BS-U practitioners and for Regional Councils, it is IN-L and BS-L practitioners.





- 7.10 The time taken to fill vacant roles at Councils highlights the very considerable difficulties that Rural Councils face in recruiting staff, although all Councils experience delays in filling roles. For Metropolitan Councils the average vacancy duration for BS-U roles is over 8 months and is only slightly less for IN-U roles, with the remainder averaging between two and a half and 6 months to fill. Regional Councils showed an average vacancy rate of 12 months for IN-L roles and 6 months for BS-L roles (although these statistics may be affected by the smaller number of Regional Councils).
- 7.11 For Rural Councils, the average vacancy duration for most roles exceeds twelve months. There can be no doubt of the impact these extended vacancies have on the capacity of Rural Council building departments to carry out their work in an effective and comprehensive manner.
- 7.12 Based on the assessment of workload by the MBS and Council staff who responded to the survey, in order to meet current demands for surveying services in Council building departments across Victoria, about 40% more capacity is required. For each of the Council areas the survey respondents indicated that the workload of their Council building department significantly exceeded capacity. Rural Councils fared the worst in this regard, with an average excess of workload over capacity of 43%. This is likely to be related to the preceding statistics regarding vacancy rates and duration for Council departments to fill positions, as well as the statistic showing that Councils are choosing not to fund a full-time MBS in Rural Councils. On average, Rural Councils need at least an additional 1.1 FTE in staff (i.e. 37.4 additional FTE staff across the 34 Rural Councils) to cover the deficit in capacity to meet the workload.



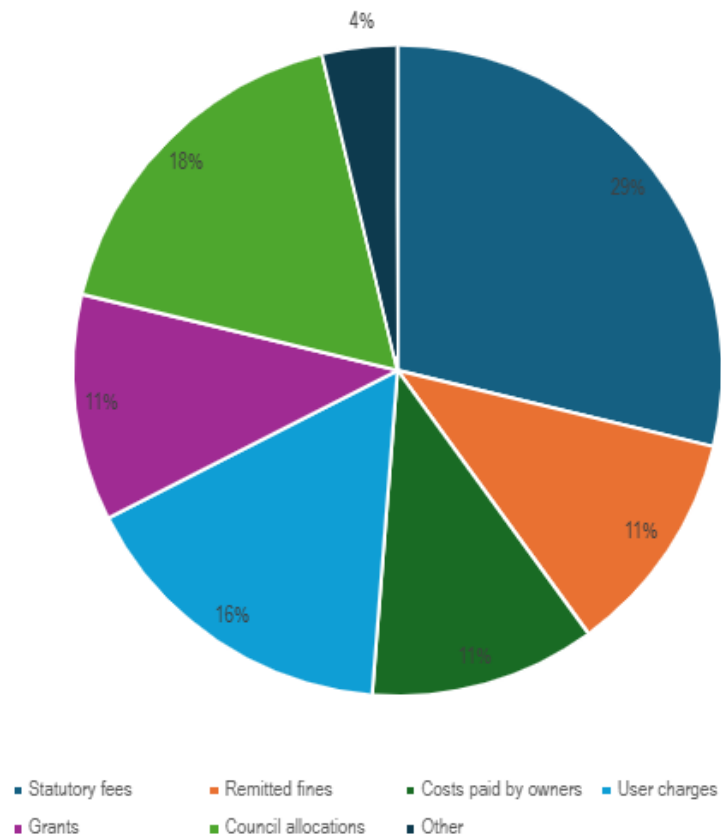
7.13 This was not significantly different for practitioners in private practice. Around 50% of practitioners not working at Councils indicated that their workload exceeded their capacity by around 39%.

## 8. Funding and resource allocation for Councils

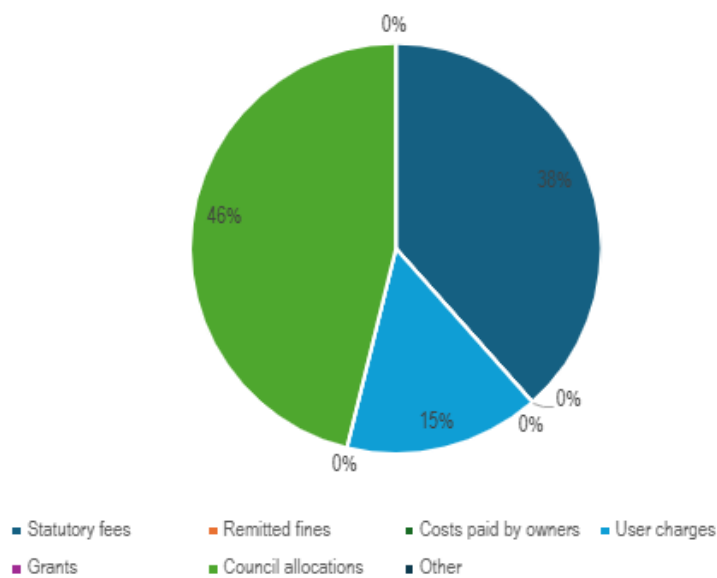
8.1 The largest source of funding for Council building departments is from statutory fees. However, there is a considerable variation between Council areas as to the sources of funding. This is not surprising, given that there are significant geographic and demographic differences between different municipalities that will influence the types of building work being carried out in those municipalities and will correspondingly impact on Council's building department activities and funding sources.

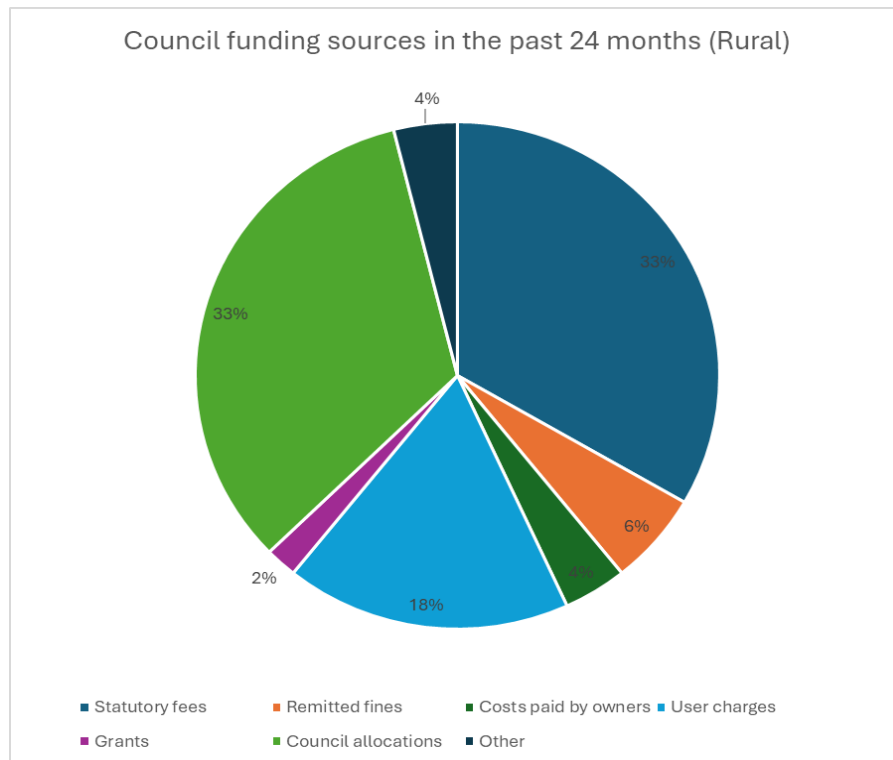
8.2 For Metropolitan Councils, Council allocation of funding from other sources within Council was a smaller proportion of overall funds (at 18%) than it was for Regional Councils (at 46%) and Rural Councils (at 33%). Metropolitan Councils and Rural Councils rely on a broader range of funding sources than Regional Councils, which rely on statutory fees, Council allocations and user charges.

Council funding sources in the past 24 months (Metro)



Council funding sources in the past 24 months (Regional)

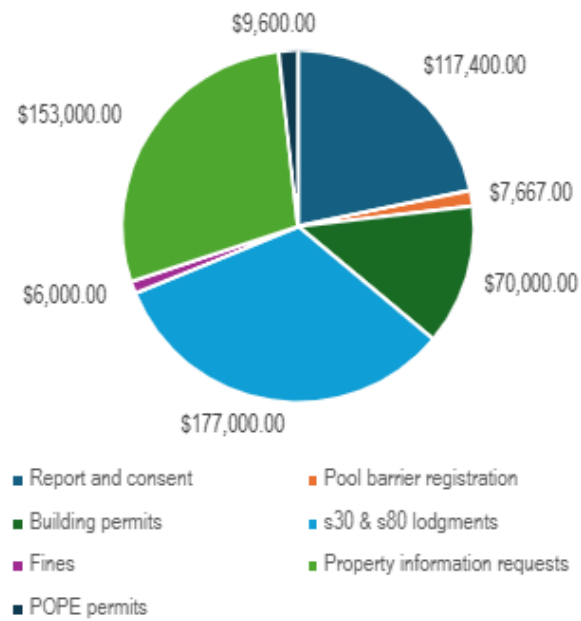




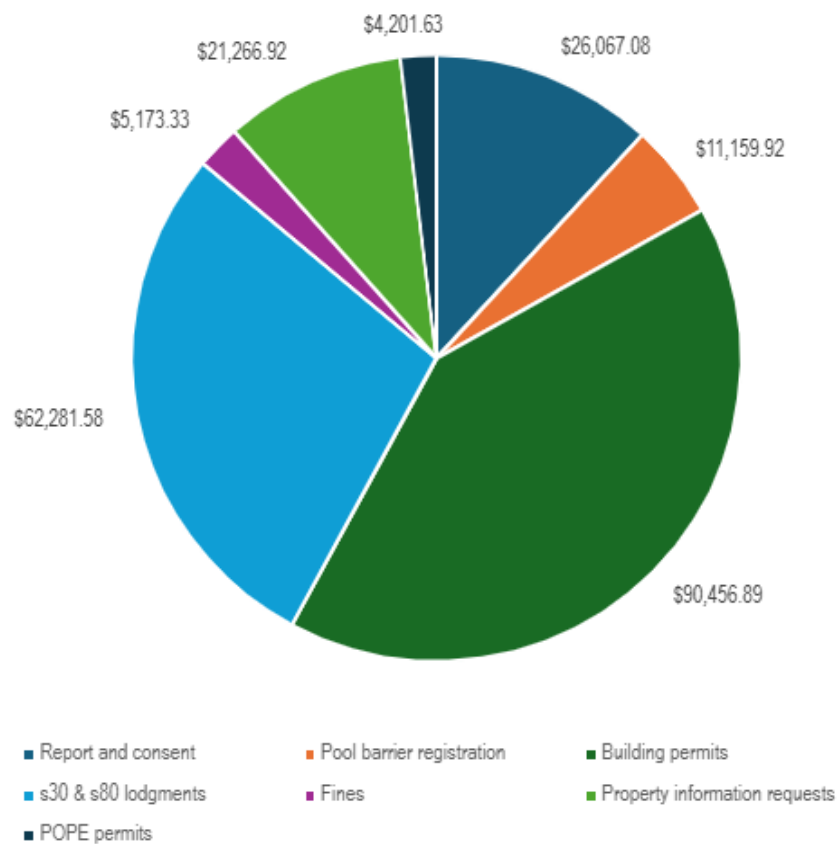
8.3 The source of internal fees charged by Council show that for each Council area, report and consent application fees, property information requests and section 30 and 80 lodgement fees are the most significant components of Council's internal fee collection. On average, the total revenue for a Council building department is \$612,614.70. For Metro Councils, this figure is \$1,076,569.74, for Regional \$540,667.00 and for Rural \$220,607.35.



Council revenue sources from building dept activities  
(Regional)

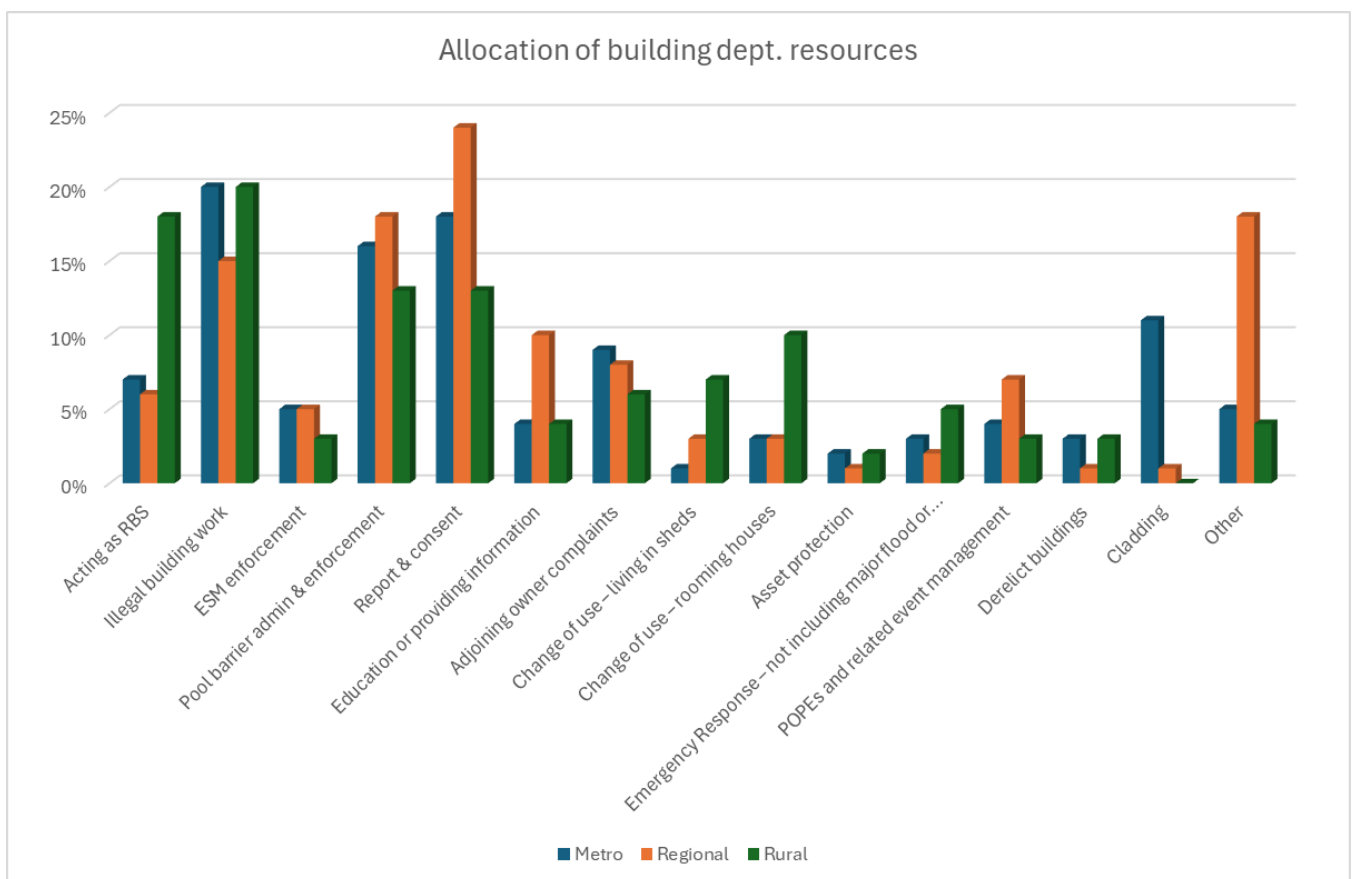


Council revenue sources from building dept activities  
(Rural)





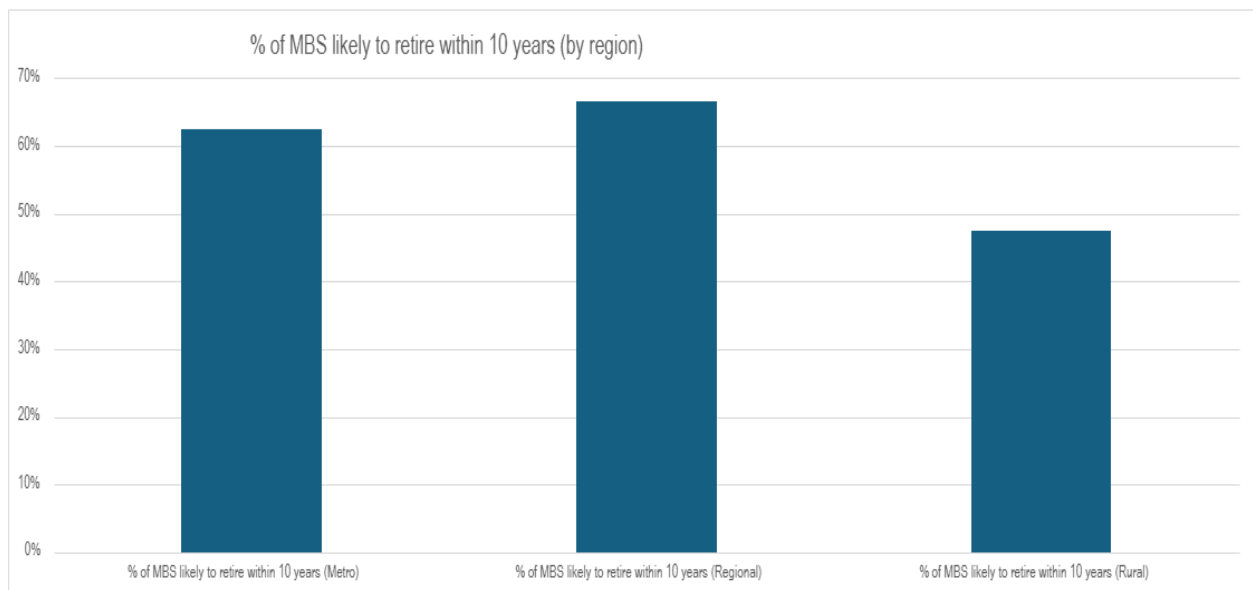
- 8.4 Councils across all areas are allocating resources to swimming pool barrier administration and enforcement which are significantly greater than the revenue generated from those services.
- 8.5 In relation to the activities of Council building departments (common priorities across all three Council areas was (in order of popularity of response):
- (a) illegal building work;
  - (b) report and consent applications; and
  - (c) swimming pool barrier administration and enforcement.
- 8.6 It is notable also that for Rural Councils, a higher proportion of resources is allocated to RBS work. This is consistent with the data showing that there are fewer available RBS' for owners needing a building permit in rural municipalities.
- 8.7 Compared to Metro and Regional Councils, Rural Councils issue a relatively larger proportion of building permits and PBSs and allocate a relatively higher level of resources to responding illegal building work, illegal change of use (such as living in sheds and illegal rooming houses) and responding to emergencies.



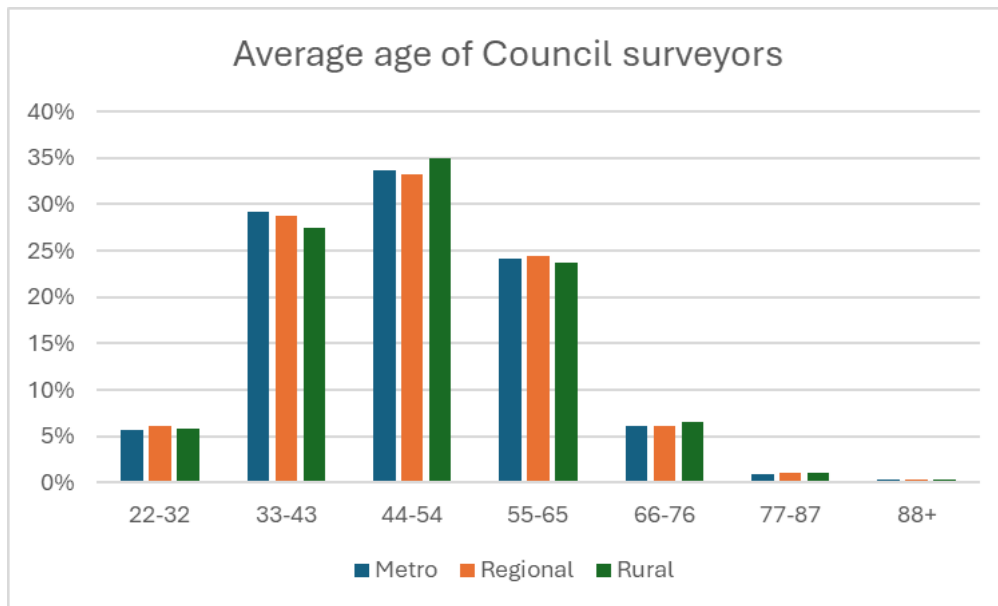


## 9. The supply of labour – current and future availability of MBSs, building surveyors and building inspectors

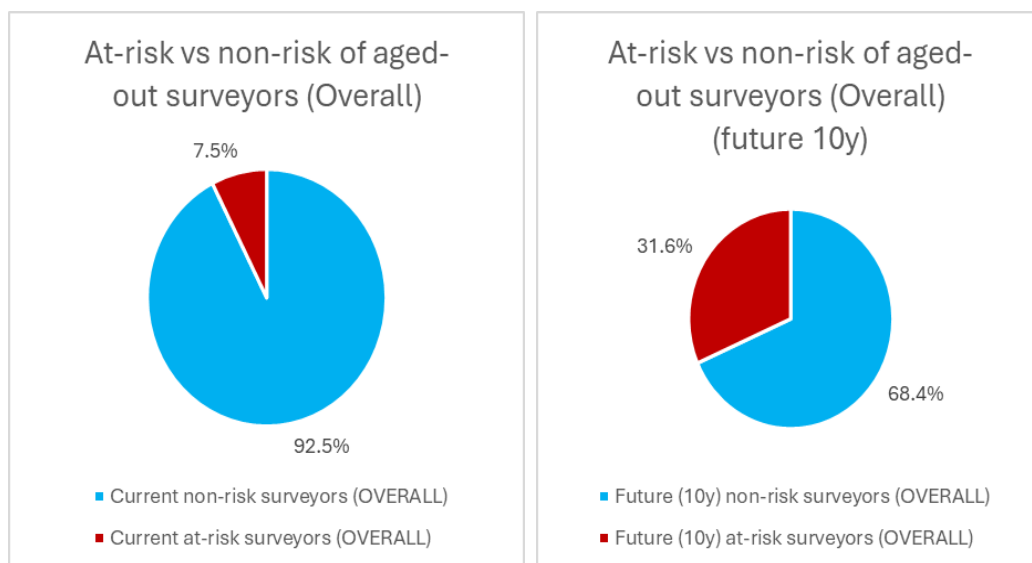
- 9.1 The survey data provided regarding current age and retirement intentions for practitioners shows that a large proportion of current MBS intend to retire soon.
- 9.2 Taken as an average across all Councils, 27% of current MBS intend to retire within the next 3 years and another 23% within the next 5 years. In total, 58% of current MBSs will have retired within the next 10 years.
- 9.3 The breakdown between Metropolitan, Regional and Rural Council regarding MBS retirement intentions is set out below.



- 9.4 Those who are appointed as MBS are likely to be practitioners who have been building surveyors for quite some time and who have built up significant experience as a building surveyor working in local government. However, even accounting for that, the number of MBS who are close to retirement is significant and demonstrates the need for a strong pipeline of registered building practitioners who aspire to achieve BS-U registration and to be appointed as MBS.
- 9.5 The number of BS-U vacancies in Councils in all areas and the length of time needed to fill those roles suggests that there are not sufficient BS-U practitioners at present to supply practitioners to replace retiring MBSs.
- 9.6 The building permit data provided by the VBA also shows that the RBS cohort currently issuing building permits in Victoria skews toward an older demographic. Similarly to the MBS cohort, this can be partly explained by the fact that more senior practitioners are those experienced enough to issue building permits.

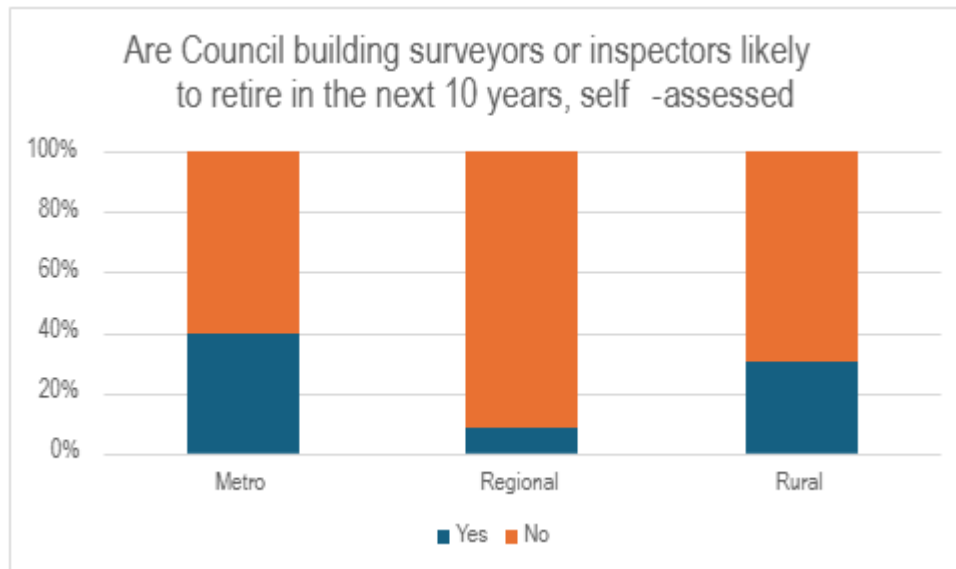


- 9.7 This may pose a relatively high risk for ‘ageing out’ of experienced staff. Assuming a retirement age of 65, there is a risk of at least 7.5% of the RBS cohort currently issuing permits to retire very soon and a 31.6% of the RBS cohort retiring within the next 10 years.



- 9.8 The data provided by the survey on retirement intentions by Council registered building surveyors and inspectors shows that around one third of building surveyors and inspectors in Metropolitan and Rural Councils currently intend to retire within the next 10 years. The proportion is lower for Regional Councils.





9.9 The VMBSG Report indicated that 38% of Councils had staff near retirement age and that only around a third of these had succession plans in place. That report also posits that the high rates of building surveyors nearing retirement keeps the supply in shortage, pushing up the salary for senior BS-U candidates.

9.10 For registered building surveyor and inspectors not working at a Council, 39% of respondents are likely to retire in 10 years or less. This is a similar result to those working at Metropolitan Councils and suggests that there is a similar age breakdown for those registered practitioners.

## 10. The current aspirations of building surveyors and building inspectors to achieve higher levels of registration and to become an MBS and the factors impacting on those aspirations

### 10.1 For Council building surveyors and inspectors:

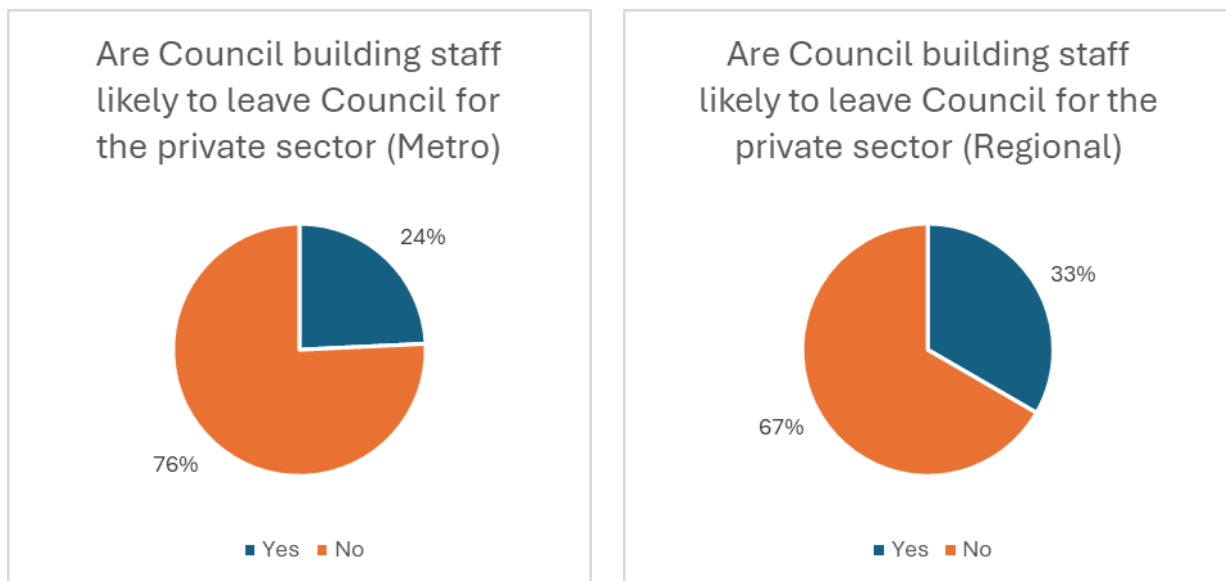
- (a) almost 33% indicated that they did not have an aspiration to become an MBS, with a further 20% unsure. Of the 43% who did aspire to become an MBS (approx 33), 57% (17) intended to do so within the next 3 years;
- (b) for registered BS-L practitioners, just under half aspired to become a BS-U within the next 3 years;
- (c) for those who were registered IN-U practitioners, almost 80% did not aspire to a higher level of registration. The remaining 20% aspired to become a BS-L as their highest level of registration and to do so within 3 years;
- (d) for those registered as IN-L practitioners, 37.5% nominated BS-L as the highest level of registration to which they aspired and 31% nominated BS-U. Most nominated 3 years as the time frame within which they intended to reach that level of registration;
- (e) for those registered as pool barrier inspectors, the highest level of registration to which the majority aspired was IN-L. Most did not have a clear timeframe in which they intended this to occur.

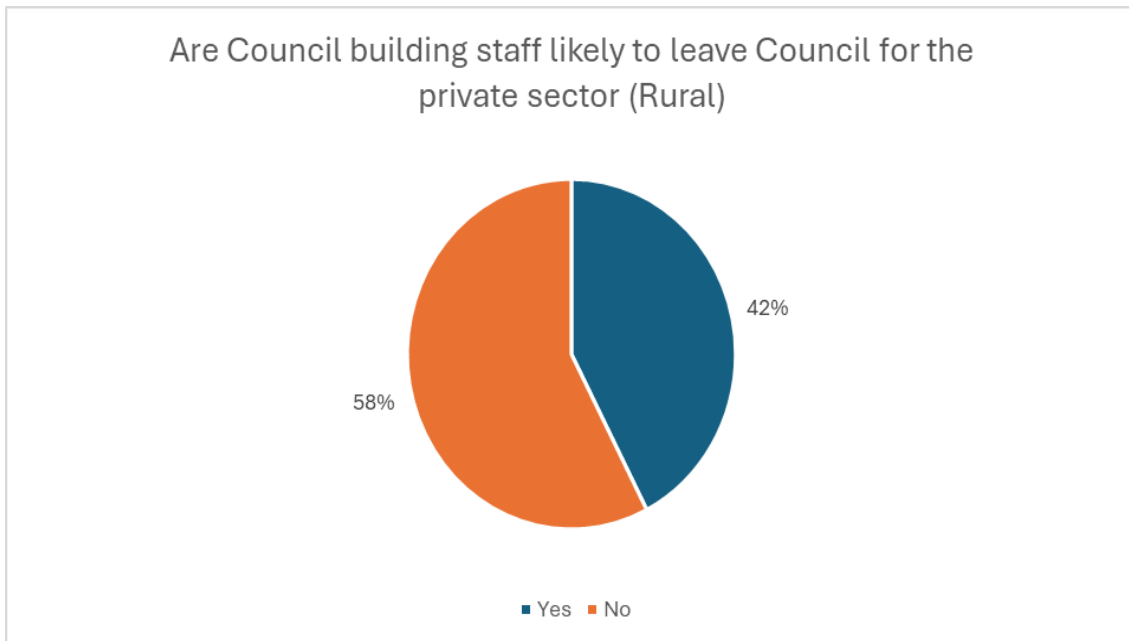
## 10.2 For registered building surveyors and inspectors not working at a Council:

- (a) almost 60% indicated that they did not have an aspiration to become an MBS and only around 20% had a current intention to become one,
- (b) for registered BS-L practitioners, just under half aspired to become a BS-U within the next 3 years;
- (c) for those who were registered IN-U practitioners, slightly more than half aspired to become a BS-U as the highest level of registration. Most did not have a clear timeframe in which they intended this to occur;
- (d) for those registered as IN-L practitioners, an equal number of respondents (42.5% each) nominated IN-U and BS-L as the highest level of registration to which they aspired, with the remainder nominating BS-U, overwhelmingly to occur within the next 3 years; and
- (e) for those registered as pool barrier inspectors, the highest level of registration to which the majority aspired was IN-L. Most did not have a clear timeframe in which they intended this to occur.

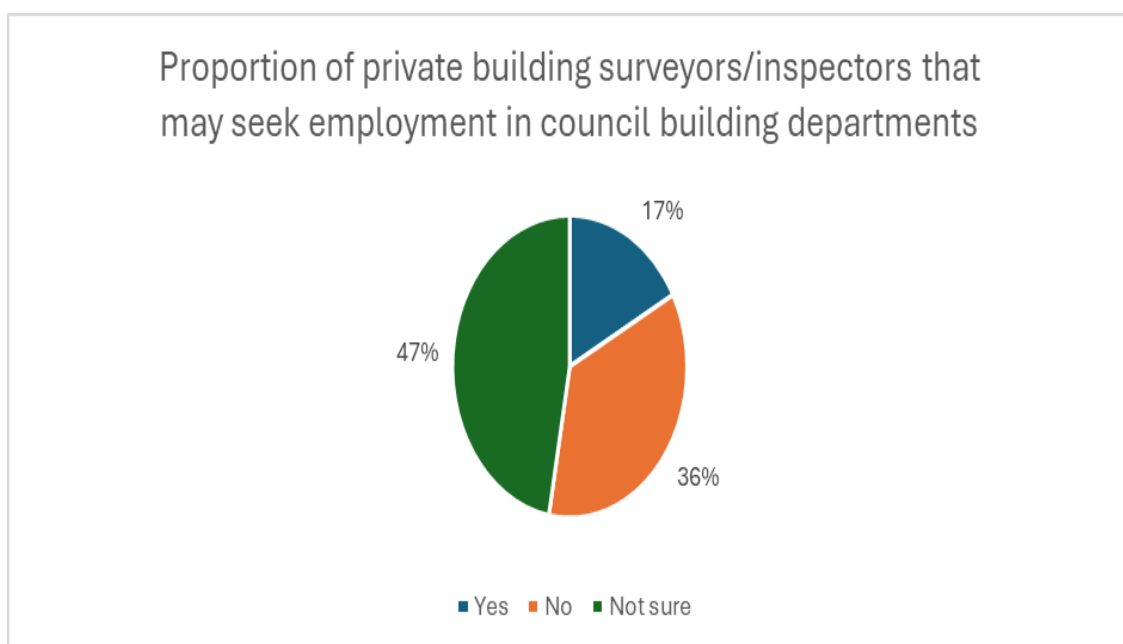
10.3 This suggests that from the cohort of Council practitioners, there is a clear pipeline of practitioners from lower levels of registration up to BS-U, with aspirations of becoming an MBS. This is not the case for registered practitioners working outside of Councils, with only 20% of practitioners having an aspiration to be appointed as an MBS. However, private practitioners are more likely than their Council counterparts to aspire to becoming a BS-U. This is consistent with the answers given about moving from the private sector to the public sector, as set out below.

10.4 The survey results shows that most Council practitioners are not likely to leave Council for the private sector. This is true for each of the Metropolitan, Regional and Rural Councils, although the number of Rural Council practitioners likely to leave for the private sector is higher than for the other Council areas, at 42%.



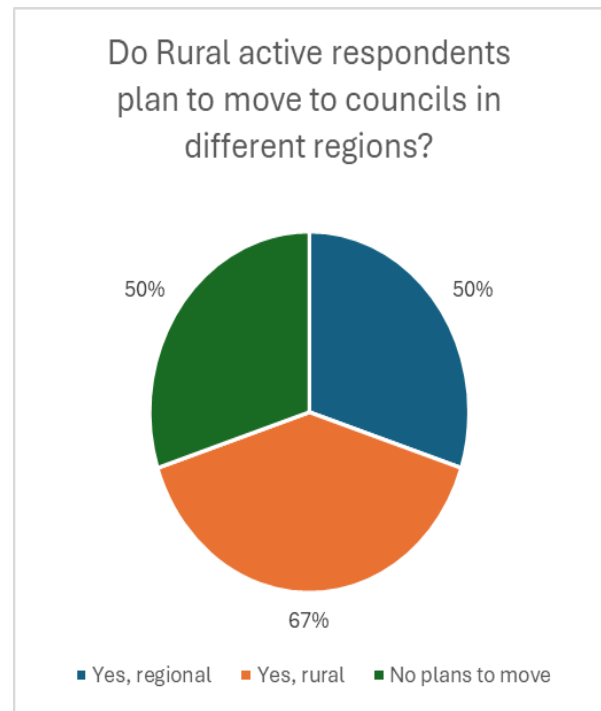
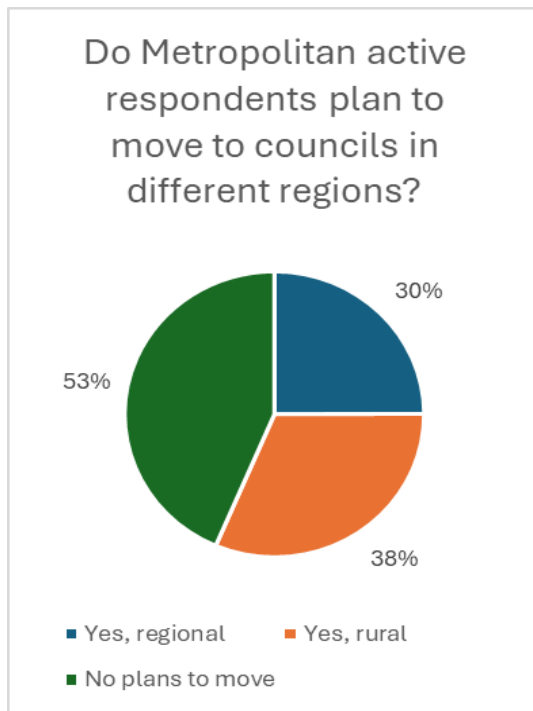


10.5 The reverse is also true. Only 17% of registered building surveyors and inspectors working in the private sector intend to seek employment in Council building departments.

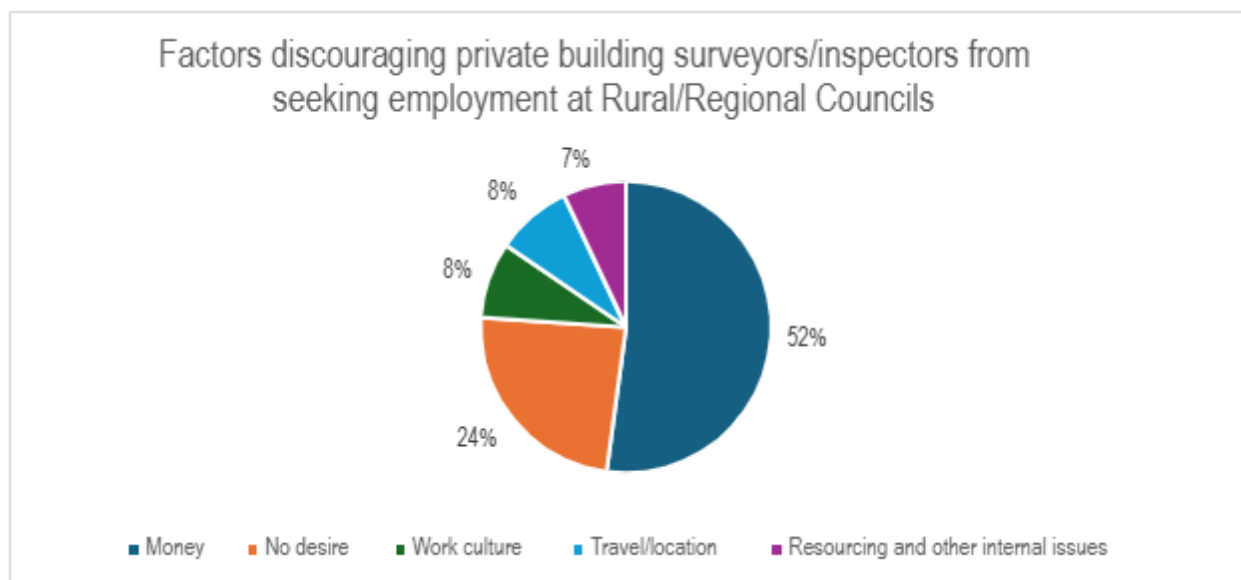


## 11. Likelihood of movement of building surveyors and inspectors from metropolitan areas to rural or regional areas and vice versa

11.1 In terms of registered practitioners moving from metropolitan areas to rural or regional areas, about 50% have no interest in doing so, whether from building surveyors and inspectors working privately or as Council employees.

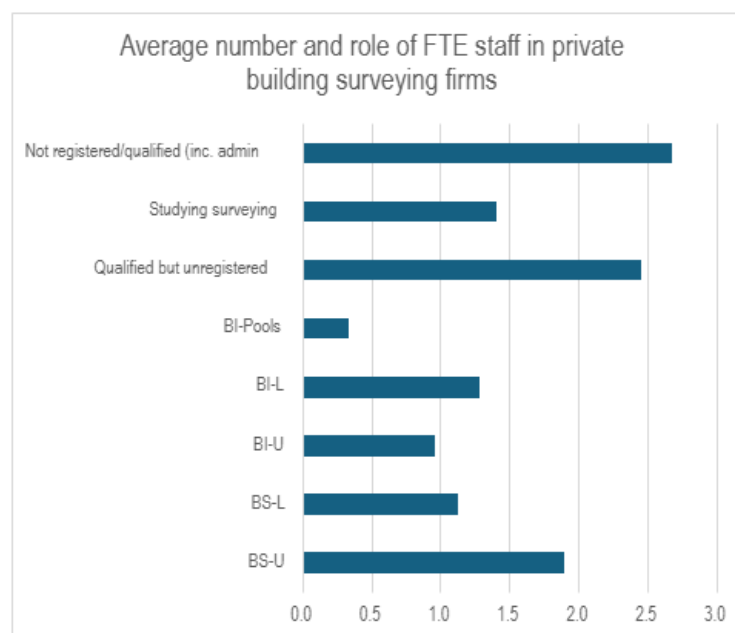


- 11.2 There are a range of reasons for this, the most predominant of which is money, at 52%. This is consistent with Rural and Regional Councils having lower budgets for their building department team and being less likely to be able to offer salaries which are on par with those of either Metropolitan Councils or PBS firms, most of which are located in metropolitan Melbourne.
- 11.3 The second most popular reason was simply no desire to, followed by the need to travel, or change their residential location. A number of respondents indicated that they did not favour the work culture of a public sector workplace like a local Council.



## 12. PBS current and future involvement in rural work

- 12.1 The data provided by PBS firms showed that very few firms are contracting with any Council. Two-thirds of PBS firms who responded to the survey offer services to building owners in metropolitan areas and less than a third offer services to building owners in rural or regional areas. Their offices are located mainly in metropolitan areas – only 28% of survey respondents had an office in a regional area and only 13% had an office in a rural area.
- 12.2 In total, the PBS firms that responded to the survey employed 376 staff. Of these, there were 171 registered building surveyors or inspectors, 76 qualified but not registered staff, 38 studying building surveying and 91 not studying, qualified or registered. The average number of FTE staff engaged by PBS firms broken down by registration category is set out below:



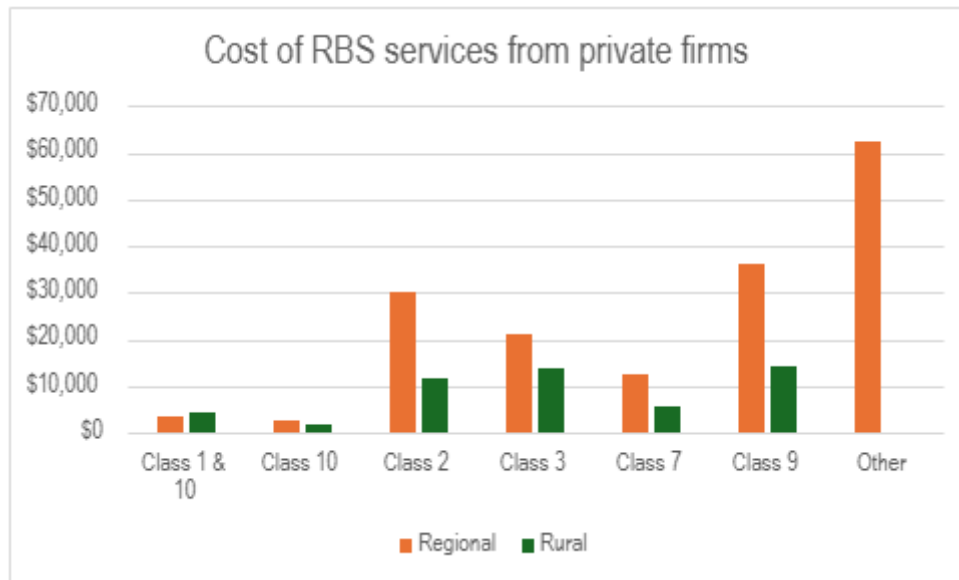
- 12.3 We note that the average number of qualified but unregistered staff in PBS firms exceeds the average number of BS-U practitioners employed in PBS firms. It can be assumed that staff working at PBS firms who are qualified but unregistered are carrying out building surveying work but are doing so under the supervision of a registered building surveyor at the PBS firm.
- 12.4 Less than 25% of PBS firms have vacancies for staff – this is very different to the position in Council departments, where 40% of Council departments overall have vacancies and 33% of Rural Councils have vacancies, which take, on average, over twelve months to fill for roles requiring registration.
- 12.5 In the PBS firms who responded to the survey there was a great deal of variation in the annual number of building permits issued with an average of 533 permits issued. 42.5% of firms issue permits across Victoria, even though there are few who have offices in Regional or Rural areas.
- 12.6 The average annual number of mandatory inspections carried out by PBS firms was 1,673. A significant proportion of mandatory inspections for building work where there is

a PBS are carried out by contractors. This is less the case for pool barrier inspections and not the case for compliance inspections and other types of inspections.

- 12.7 The average cost of mandatory inspections carried out by or on behalf of PBS firms for Rural and Regional areas is similar as shown below.



- 12.8 Where PBS firms are providing services in rural areas, that is overwhelmingly when acting as RBS for building work, with the remainder mostly relating to consulting services for discrete issues. This is likewise the case for work in Regional Council areas, although PBS firms are slightly more likely to provide pool inspection services in regional areas than in rural ones.
- 12.9 Whilst there is interest in providing more services in rural and regional areas, the barriers to this occurring are that their services are not being sought or that they can't do so, due to distance and resourcing issues.
- 12.10 In terms of how inspections are carried out in rural and regional areas where a PBS is the RBS for building work in those areas, the majority of mandatory inspections, compliance inspections and pool barrier inspections are carried out by self-inspection or by employees, with locally based contractors also used for inspections.
- 12.11 The average cost of PBS firms providing RBS services in Rural, Regional and Metro areas differs, with Regional areas paying more than Rural areas. :



## Part C – Other observations

Observations set out below are taken from the data, our engagement with stakeholders or our own experience in acting for Council building departments.

### 13. Data collection issues

- 13.1 The collection and analysis of relevant data relating to MBS functions is made significantly more difficult by the fact that there is no centralised repository of data relating to MBSs and their work. Despite the fact that an MBS role is a statutory appointment and that their role is central to the fulfilment of the objectives of the Act, there is no obligation for Councils to notify the VBA of the identity of the MBS for their municipality, nor any power of the VBA to collect data relating to MBS.



### Recommendation 1

That the VBA collaborate with Councils to collect and maintain data about the identity of all MBSs and delegates of MBSs and, if necessary, that there be a statutory mechanism created to formalise this data collection arrangement.

### 14. Complexity in delegations & insurance

- 14.1 The Act enables MBS functions to be provided through contracting arrangements with other Councils, the VBA or PBSs (sections 214 and 215 are discussed further below). These provisions provide a high degree of flexibility to Councils to share MBS and other Council building officer resources. However, many functions under the Act are given to Councils. Section 5 of the *Local Government Act 2020* provides that Council functions can only be delegated to staff of Councils. Notwithstanding there is, for example, a common misconception that contracted MBSs can issue report and consent as delegates of Council.
- 14.2 The Act provides for the MBS to delegate their functions to other appropriately registered building surveyors or inspectors (section 216B) and to appoint authorised officers to exercise investigative powers (section 228A) (such officers need not be registered but they must, in the opinion of the MBS, hold suitable qualifications and skills to exercise the functions they are authorised to perform).
- 14.3 The VMIA will not insure contractors to Councils. Whilst the VMIA has developed a position which allows contracted MBSs to be covered by Council's insurance in certain circumstances, it is not clear whether persons engaged by the MBS who are not Council staff but who act as delegates or authorised officers to assist in delivering MBS services, can also be covered.
- 14.4 Many Council MBSs have retired or are nearing retirement and may be willing to take on part time contracting roles to Councils. However, they may not be willing or able to afford the required professional indemnity insurance in order to maintain their registration.





## Recommendation 2

That the Government review and where necessary amend the Act or LGA to reduce the complexity associated with delegations and authorisations by contracted MBSs noting many functions performed by an MBS are those of Council.



## Recommendation 3

That the position on insurance coverage for contractors delivering MBS services to Councils (whether or not they are appointed as the MBS or assisting the MBS as a delegate or authorised person) be that they are covered by Council's public liability insurance.



## Recommendation 4

The VBA and State Government consider whether registered building surveyors or inspectors can be exempted from the requirement to hold insurance, provided they only work as staff or contractors to Councils (assuming Recommendation 3 is implemented).

### 15. Registration issues

15.1 The current categories and classes of registration for building surveyors and inspectors do not align to the nature of buildings and work in rural Council areas, which creates a barrier to registration for those wishing to work in Rural Council building departments.

15.2 The scope of registration for building surveyors and inspectors is as follows:

	Scope of work	Relevant provisions
Building Surveyor – Unlimited (BS-U)	all classes and sizes of buildings	Schedule 10 of the Regulations
Building Surveyor – Limited (BS-L)	buildings of any class up to 3 storeys in height and with a maximum floor area of 2000sqm	Schedule 10 of the Regulations
BS-U or BS-L with condition	further limited by a condition – such as for class 1 and 10 buildings only	VBA power to impose conditions
Building Inspector – Unlimited (IN-U)	all classes and sizes of buildings	Schedule 11 of the Regulations



Building Inspector – Limited (IN-L)	buildings (excluding buildings with basements) of up to 3 storeys in height with a maximum floor area of 500 m <sup>2</sup> OR for all classes of buildings (including buildings with basements) of up to 3 storeys in height with a maximum floor area of up to 2000 m <sup>2</sup>	Schedule 11 of the Regulations
Building Inspector – pool safety (IN-P)	Swimming pool and spa barrier inspections and related functions	Schedule 11 of the Regulations
IN-U or IN-L	Further limited by a condition – such as for class 1 and 10 buildings only	VBA power to impose conditions

15.3 The difficulty with the current scopes of registration is that Council officers who have only ever worked in Councils and in particular, in rural areas, will not be able to gain broad enough experience to be accepted for registration in unlimited categories of registration. Whilst they may be able to gain experience to be registered in a limited class, this will not allow them to perform functions in relation to all buildings in the municipality. Although there may often be very few buildings over 3 storeys in rural areas, it is very common for buildings, such as farming sheds or class 9 buildings, to be more than 2000 sqm. This limits the pool of practitioners who can hold the role of MBS. Even when a Council can secure an MBS, they have difficulty covering the role when that person takes leave.

15.4 It is reported that, if the scope of registration classes was aligned to the types of buildings in rural areas, this would provide a clearer pathway for progress towards becoming an MBS. Some have proposed that there be a class of registration for ‘municipal’ surveyors. This may require a bespoke course or qualification to ensure that applicants hold the requisite competencies. It might also mean that persons holding this class of registration or condition on their registration may not be able to practice as private building surveyors unless they can undertake a bridging course or gain experience to also attain other classes or registration.



## Recommendation 5

That the VBA and government develop a strategy for the creation of classes of registration, or conditions that align to the scope and nature of buildings in rural Council areas so that a clear pathway for registration to become an MBS is available to those wanting to work in Rural Council areas.

## 16. Funding for Councils

- 16.1 At present Council building departments are funded by statutory fees payable under the Act or Regulations and/or other funding allocated from each Council's broader revenue base. A significant proportion of funding for Council building departments comes from each Council's broader revenue base. For Metro Councils this is 18% of overall funds, for Regional Councils 46% and for Rural Councils 33%. It is unclear whether prescribed statutory fees are adequate for the administration to which they relate. For example, it would appear that fees for swimming pool barrier registrations are not adequate to fund the administration of this function. It is also not clear whether all statutory fees from building department services are actually used in building departments or retained by Councils in general revenue. Greater transparency and accountability by Councils for funding and spending in their building departments should be required.
- 16.2 The VBA collects a levy on all building permits based on the value of building work, but none of this is given to Councils, even though Councils are integral to the overall administration and enforcement of the regulatory framework. Every new building built becomes an existing building that a Council has responsibility for under section 212 of the Act. The survey results show that the activity that Councils spend the most time on is in relation to illegal building work. There is no mechanism in the Act for Council to recover costs for this time-consuming activity. Enforcement through prosecution may result in fines, but it is well known that taking enforcement action is not likely to result in full cost recovery, particularly because costs orders, if made, rarely reflect actual costs made and many fines or costs ordered by courts are not actually paid.



## Recommendation 6

That the Government consider reforms to provide for distribution of a proportion of the building permit levy to Councils to fund their building department activities.

A review of all statutory fees should be undertaken to ensure that the fees collected are adequate for the work required to administer each statutory application or function.

Such reform should come with an accountability mechanism to ensure this funding is used only for building department work.

(Note: The Act already envisages oversight of Council building functions by the State Building Surveyor and this is currently proposed through the development of municipal building control plans.)

## 17. Reforms to enable greater efficiency in Council building departments

- 17.1 The survey shows that the activities that Councils spend the most time on are illegal building work, report and consent applications and swimming pool barrier enforcement.
- 17.2 All three of these areas require reform to enable greater efficiency in the exercise of MBS and Council functions.



## Recommendation 7

That reforms be made to the Act and Regulations with a view to enabling Councils and MBS to perform their functions more efficiently. Examples include

- A. In relation to illegal building work, there should be a statutory process for resolving work without a permit which includes, for example:
  - (a) a specific type of enforcement notice that can be issued which enables the MBS to require the owner to seek reports to identify and rectify non-compliance;
  - (b) infringements to be issued to owners with penalties that act as a deterrent;
  - (c) a notation on title to provide transparency to potential purchasers (which would also act as a deterrence to owners).
- B. In relation to report and consent:
  - (a) a review to ensure that the number and nature of triggers for seeking report and consent remains reasonable and that any proposed reforms to support housing supply policies do not increase the volume of report and consent applications;
  - (b) a shift of the exercise of these Council (not MBS) functions involving siting matters to planning department officers, where appropriate.
- C. In relation to swimming pool barrier enforcement, we understand that amendments to regulations to iron out problems raised by the VMBSG and make the administration and enforcement process more efficient were drafted some years ago but have not been enacted. These improvements need to be progressed.

### 18. Places of Public Entertainment

18.1 There are an increasing number of large festivals and other public events being held in regional and rural areas. These are complex, high risk events that require involvement of emergency services. At present only the MBS can issue an occupancy permit for a POPE. It requires significant skills and resources to assess and approve applications, which can overwhelm smaller Council building departments in rural areas.



## Recommendation 8

As part of the State Government's review of the POPE regime, consideration ought to be given to whether the approval of POPE permits for rural areas ought to become a function of the VBA.

### 19. External pressures on MBS and Council decision-making

19.1 Those who work in Rural Councils, whether they be an MBS, a building surveyor, building inspector or an administrative staff member, commonly face opposition and resistance



when carrying out their work under the Act, whether in relation to the issuing of permits or the carrying out of enforcement work. Staff may be subjected to verbal abuse or to opposition based on an assumption that Council staff are not competently carrying out their work. Whilst this can be so in all Councils, it is felt more acutely in Rural Councils where communities are small and residents commonly know the MBS and other staff personally.

- 19.2 Difficult decisions are required to be made under the Act – where enforcement action is taken or permits are refused by an MBS, this may have a significant financial or lifestyle impact on residents. Notwithstanding that the action may be justified on safety grounds, it may cause residents to be upset and angry. Where a township is small and building staff live in the town this may mean that MBSs and building staff more generally are subjected to unwarranted pressure and abuse when trying to carry out their functions under the Act. This may contribute to a disinclination on the part of registered building practitioners, whether in local government or private practice, to move to a Rural Council to work.
- 19.3 There may also be pressure on staff from within their Council – whether from management or from elected councillors to whom residents will commonly turn when they are upset over action taken by the building department. MBSs hold a unique position within Council. Whilst they may have been engaged either as an employee or as a contractor, they are directly given a broad range of statutory powers. The exercise of those powers is a matter for the discretion of the MBS. Given the important role of the MBS in ensuring the safety of buildings and structures in the municipality, it is important that the MBS is supported by Council in exercising their independent judgement and expertise when making decisions under the Act. However, that does not always occur, particularly where an issue or decision becomes publicised within the municipality or more broadly. MBSs can be subject to significant pressures and there may be disputes as between them and management at Council.
- 19.4 It was also reported that before privatisation of building surveying services in the mid 90's, the MBS was often an executive role within Councils. Over time, the size of building departments has decreased and the MBS role has been demoted, resulting in them having a reduced authorising environment within Councils. Steps have been taken to ensure Councils have a proper appreciation for the powers and functions of the MBS and Council with regard to building safety and compliance. Recent amendments to the Act give functions to the SBS to *"to monitor councils' delivery of their building control functions and to provide councils with advice and support on the performance of those functions"* (section 206B). The SBS is in the process of developing municipal building controls plans with Councils to document the scope and nature of building department issues for each Council and define what adequate resourcing should look like.



## Recommendation 9

That the State Government give consideration to whether the Act and Regulations should be amended to enable building enforcement to be carried out at a regional, rather than municipal, level in Rural areas, so that the decision-makers are more separate and independent of the municipality affected by those decisions.



## 20. Current MBS resourcing models used by Councils

20.1 Councils are currently utilising a variety of ways to address the difficulties they may experience in resourcing the MBS and building department roles within their Council. This includes:

- (a) Councils sharing the services of a contractor under a single contract;
- (b) Councils who have contracted with the same service provider so they are sharing an MBS, but under their own one-on-one agreements;
- (c) where an MBS is employed by one council and that Council then enters a contract with another Council to share the MBS.

20.2 Whilst Councils are utilising a variety of models, some of which appear to work well, the ad hoc nature of these arrangements can mean that some Councils are not obtaining the best value for money spent. This tends to occur where Council's contract individually rather than collaboratively. These various contracting arrangements can also often be short term solutions leaving Councils to have to retender every few years.



### Recommendation 10

That the State Government give consideration as to whether it could provide monetary or governance support to joint resourcing arrangements for MBSs in Rural Councils or to whether the Act and Regulations should be amended to more easily enable this sort of resourcing by groups of Councils.



## Part D – Suggested models for providing MBS services

### 21. High level conclusions about Rural Council building departments

21.1 The following conclusions (as relevant to the provision of building surveying services in Rural Council areas) are drawn from the survey:

- (a) Most Rural Councils are not willing to pay for or do not see the need for full time MBSs. This suggests a lack of regard for the role and responsibility Councils have under the Act and Regulations;
- (b) Compared to Metro and Regional Councils, Rural Councils issue a relatively larger proportion of building permits and allocate a relatively higher level of resources to responding illegal building work, illegal change of use (such as living in sheds and illegal rooming houses) and responding to emergencies.
- (c) Rural Councils require 44% more staff in their building departments to meet current workloads. This equates to an average of at least 1.1 FTE in additional staff or 37.4 people across the 34 Rural Councils.
- (d) Given Rural Councils are spending significantly more time issuing permits than Councils in Metro and Regional Victoria, any service delivery model will need to include permit issuing services for Rural Victoria;
- (e) In Rural areas the MBS and Council building department staff spend about 70% of their time working from their desktop. This is relevant when considering where council building services need to be located relative to Rural Council areas.

### 22. Existing provisions for delivery of MBS services

22.1 Across all Victorian Councils, 33% (26) of Councils have a contracted MBS. In Rural Councils this is 55% (18.7 of the 34 Councils).

22.2 The Act provides for Councils to contract for MBS services. Section 214 provides for agreements between Council's or between a Council and the VBA whilst section 215 provides for agreements between Councils and private building surveyors.

22.3 Section 214 and 215 provide:

#### **214. Agreements with Councils or the Authority**

- (1) *Despite anything to the contrary in the **Local Government Act 2020**, a Council may enter into an agreement with any other Council or with the Authority in respect of the carrying out by the Authority or the municipal building surveyor of the second council of any of the functions under this Act or the regulations of the municipal building surveyor of the first council.*
- (2) *If a council enters into an agreement with another council under subsection (1) in respect of the carrying out of the functions of a municipal building surveyor, the municipal building surveyor of the second council is taken, while the agreement is in force, to be the municipal building surveyor of the first council for the purpose of carrying out the functions set out in the agreement.*





- (3) *If the Authority enters into an agreement with a council under subsection (1) in respect of the carrying out of the functions of a municipal building surveyor, the Authority is taken, while the agreement is in force, to be the municipal building surveyor of that council for the purpose of carrying out the functions set out in the agreement.*
- (4) *Nothing in this section prevents the Authority or a council from entering into agreements in respect of the carrying out of the functions of the municipal building surveyor of more than one council.*

#### **215. Agreement with private building surveyor**

- (1) *Despite anything to the contrary in the **Local Government Act 2020**, a council may enter into an agreement with a private building surveyor to carry out the functions under this Act and the regulations of the municipal building surveyor of the council.*
- (2) *A private building surveyor who enters into an agreement with a council under subsection (1)–*
  - (a) *is taken to be the municipal building surveyor of that council for the purpose of carrying out the functions set out in the agreement; and*
  - (b) *despite anything to the contrary in the **Local Government Act 2020**, is not a member of staff of the council.*

22.4 These provisions provide a high degree of flexibility to Councils to share MBS and other Council building officer resources. As noted above, many Councils are utilising these provisions to contract or share MBS services.

### **23. Potential models for delivery of Council building services**

23.1 We propose 5 models for the provision of building surveying services to Rural Councils in a manner that enables the work to be carried out in a cost-efficient way and involves collaboration with state government. A more detailed analysis and consideration of preferred models will be carried out separately as a second phase of the work being undertaken by RCV. However the models are described below as a high-level summary as follows:

- (a) MODEL 1 - Sharing of resources between multiple Councils facilitated by RCV.
- (b) MODEL 2 - Agreement between Councils facilitated by State government
- (c) MODEL 3 – Services delivered through business units
- (d) MODEL 4 - The replacement of MBS functions for individual Councils with a regional hub model
- (e) MODEL 5 - Replacement of all Rural Council MBSs with a single Rural Council Services body

#### **MODEL 1 - Sharing of resources between multiple Councils facilitated by RCV.**

Contracting between the Councils who jointly appoint an MBS. RCV would develop a template agreement for use by Councils. Under the template agreement, the participating Councils would agree upon:

- (a) the respective funding contributions of each Council;





- (b) the resources towards which the funding will be put, including an MBS and any associated additional staffing;
- (c) how the resources of the MBS and any other staff will be divided between the municipalities that are part of the agreement; and
- (d) a procedural guideline that provides guidance on decision making or priorities for permit and enforcement activity across the region.

#### *Service Delivery*

Services would be provided by the MBS and any other staff pursuant to the terms specified in the agreement.

#### *Governance*

The execution of functions and delivery of service would be governed by the terms of the agreement. Participating Councils would need to ensure that they have oversight of activities within their municipality to manage risk and ensure service delivery is occurring.

#### *Resourcing*

Councils would need to provide agreed amounts of funding for service delivery.

#### *Implementation*

This model would not require any legislative amendment. However, the functions under the Act that sit with Council, rather than the MBS and which cannot be delegated to the MBS (such as report and consent) would need to be managed. This might require a process of initial consideration by the MBS and their team but then review and final signoff by someone within Council. Alternatively, a legislative amendment could be sought to enable that function to be delegated to the MBS.

### **MODEL 2: Agreement between Councils facilitated by State government**

Agreement between multiple Councils as outlined in (a) above, but where the procurement process and contract management are managed by a State government department or body such as the OSBS on behalf of the Councils involved.

#### *Service Delivery*

Services would be provided by the MBS and any other staff pursuant to the terms specified in the agreement.

#### *Governance*

The execution of functions and delivery of service would be governed by the terms of the agreement. Participating Councils would need to ensure that they have oversight of activities within their municipality to manage risk and ensure service delivery is occurring. There would also be oversight by State Government or the OSBS.

#### *Resourcing*

Councils would need to provide agreed amounts of funding for service delivery. The procurement process and contract management/oversight would need to be funded by the relevant State Government department or body.

#### *Implementation*

This model would not require legislative amendment (save for our previous comments regarding non-delegable Council functions).



### **MODEL 3 – Services delivered through business units**

Where one or more Councils establish a separate corporate entity that would employ the MBS and staff for the purposes of providing building surveying services to multiple Councils.

Section 110 of the *Local Government Act 2020* enables Councils to establish beneficial enterprises. This power is intended to facilitate Councils finding alternative ways to provide services, by empowering Councils to establish a separate corporate entity which contracts to provide the services. We note that this has occurred in other local government contexts. For example, it has long been the case that library services are provided via Regional Library Corporations. Likewise, City of Melbourne established Citywide Service Solutions, a separate entity which provides waste management, street cleaning, garden maintenance and other functions. The entity is fully owned by City of Melbourne and contracts with City of Melbourne and with other metropolitan Councils to provide services to them. This type of model could be utilised for building surveying functions.

#### *Service Delivery*

Under this model, the entity would contract with each Council to provide MBS and building department services.

#### *Governance*

There would be a board of directors and management staff. Ownership of that entity can be shared across participating Councils in the region. Alternatively, it could be owned by one Council and the entity could then contract to provide services both to its own Council and to other Rural Councils (similarly to the Citywide model).

#### *Resourcing*

The services would be paid for by contracting Councils. By establishing an entity that exists only to provide these services, processes could be streamlined to provide economies of scale, so that services can be provided more efficiently and with less cost than Councils employing their own staff to carry out the work.

#### *Implementation*

This model would not require legislative amendment (save for our previous comments regarding non-delegable Council functions).

### **MODEL 4 - The replacement of MBS functions for individual Councils with a regional hub model**

Under this model, instead of having an MBS (whether shared or individual) for each municipality, there would be a 'Regional MBSs.

#### *Service Delivery*

A number of hubs would be created to service multiple Councils and all MBS decisions would be made at the regional hub level. Under the model, consumers would access the Hubs via their local Council.

#### *Governance*

This might require each regional hub to appoint a Regional Hub MBS to oversee decision making for the Councils who are members of that hub.



### *Resourcing*

This may require the assistance of the State Government to fund the establishment of the Hubs, procurement of services and ongoing governance and management costs of the Hubs with statutory fees collected by each Council under the Act and Regulations directed to fund the Hub. In addition, a formula would be required to determine a contribution from each participating Council.

### *Implementation*

This model could be operated in a similar way to models 1-3, where the regional hub is created in name but with no statutory basis. Alternatively, a more formal model would require legislative amendment to establish the hubs, give them the necessary powers and functions and to direct their resourcing from individual Rural Councils. This amendment could occur in Part 12 of the Act and could operate similarly to the Board of Alpine Resorts Victoria, which carries out functions under the Act for Alpine Resorts, pursuant to section 192 of the Act.

## **MODEL 5 - Replacement of all Rural Council MBSs with a single Rural Council Services body**

Under this model, a single body would deliver MBS functions to all Rural Councils. The Rural Council Services body might have a single MBS who reports to the State Building Surveyor.

### *Service Delivery*

Service delivery could occur via staff working from a select number of Rural Council or state government offices located in Rural Council areas. Under this model, consumers would come directly to the Rural Council Services body for services.

### *Governance*

The Rural Council Services body could also have a Board and/or CEO to oversee the delivery of services to all Rural Councils.

### *Resourcing*

The State might fund the establishment of the Rural Council Services body, procurement of services, ongoing governance and management costs. Statutory fees payable under the Act and Regulations for various services would also be collected by the Rural Council Services body, in addition to a formula to determine a contribution from each Rural Council.

### *Implementation*

This model would require legislative amendment to establish the body, to give it the necessary powers and functions and to direct its resourcing from individual Rural Councils. This amendment could occur in Part 12 of the Act and could operate similarly to the Board of Alpine Resorts Victoria, which carries out functions under the Act for Alpine Resorts, pursuant to section 192 of the Act.



# Appendix 1 – Councils allocated to Rural, Regional and Metro areas for the purposes of the survey

## Metropolitan & Interface Councils

City of Banyule	City of Hume	City of Moonee Valley
City of Bayside	City of Kingston	Shire of Nillumbik
City of Boroondara	City of Knox	City of Port Phillip
City of Brimbank	City of Manningham	City of Stonnington
City of Casey	City of Maribyrnong	City of Whitehorse
Shire of Cardinia	City of Maroondah	City of Whittlesea
City of Darebin	City of Melbourne	City of Wyndham
City of Frankston	City of Melton	City of Yarra
City of Glen Eira	City of Monash	Yarra Ranges Shire
City of Greater Dandenong	City of Merri-bek	
City of Hobsons Bay	Shire of Mornington Peninsula	

\* Note no MBS/Manager data received from Glen Eira, Merri-bek, Moonee Valley, Stonnington, Yarra

## Regional & Other Rural Councils

Ararat Rural City	Greater Shepparton City Council	Surf Coast Shire Council
City of Ballarat	Horsham Rural City Council	Wangaratta Rural Council
Bass Coast Shire Council	City of Latrobe	Warrnambool City Council
Baw Baw Shire Council		Wodonga City Council
Greater Bendigo City Council	Mildura Rural City Council	
City of Greater Geelong		

\*Note no MBS/Manager data received from Greater Shepparton, Latrobe, Surf Coast,

## Rural Councils Victoria Group

North west region	North east region
Buloke Shire Council	Alpine Shire Council
Hindmarsh Shire Council	Benalla Rural City Council
Northern Grampians Shire Council	Indigo Shire Council
Swan Hill Rural City Council	Mansfield Shire Council
West Wimmera Shire Council	Mitchell Shire Council
Yarriambiack Shire Council	Moira Shire Council
	Murrindindi Shire Council
	Strathbogie Shire Council
	Towong Shire Council
North Central region	South Central region
Campaspe Shire Council	Borough of Queenscliffe
Central Goldfields Shire Council	Golden Plains Shire Council
Gannawarra Shire Council	Hepburn Shire Council
Loddon Shire Council	Moorabool Shire Council
Macedon Ranges Shire Council	Pyrenees Shire Council
Mount Alexander Shire Council	
South West region	Rural South region
Colac Otway Shire Council	East Gippsland Shire Council
Corangamite Shire Council	South Gippsland Shire Council
Glenelg Shire Council	Wellington Shire Council
Moyne Shire Council	
Southern Grampians Shire Council	

\*Note no MBS/Manager data received from Colac Otway, Hindmarsh, Mitchell, Moyne, Strathbogie, Towong