

VICTORIAN ombudsman

Investigation into a Building Permit complaint

November 2023



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**The Victorian Ombudsman pays respect to First Nations custodians of Country throughout Victoria.
This respect is extended to their Elders past and present. We acknowledge their sovereignty was never ceded.**

Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973* (Vic), I present to Parliament my report on the *Investigation into a Building Permit complaint*.

A handwritten signature in black ink, appearing to read 'Deborah Glass', with a stylized flourish extending to the right.

Deborah Glass OBE
Ombudsman

15 November 2023

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Foreword

This is the story of a 72-year-old widow, who has spent the last six years entangled in a bureaucratic nightmare with two local councils. Her story is a catalogue of misfortune and mistakes. We are hopeful of a clearer understanding and better communication between the parties, and a happier ending following this investigation.

Robyn's home was destroyed in the Black Saturday bushfires of 2009 and some years later Robyn was widowed. Her adult son requires a dialysis machine to keep him alive.

In 2016, Robyn built a structure on her land for her son to live in. She thought she had the correct permit to do so, but she did not. Unknown to her, her builder had applied to a Council (that was not her local Council) for a permit to build a shed.

The Council sent a copy of the permit to the wrong person at the wrong address, so she did not find out until too late that it did not match her plans. In 2017, her local Council, which had not issued the permit, issued a Building Order requiring her to address health and safety concerns with the building. The requirements were technical and to a lay person, incomprehensible. As she could not possibly comply with the order within the requisite 60 days, the Council required Robyn to apply for extensions. It did this at least nine times, despite acknowledging the stress and anxiety each application was causing Robyn and her son.

In attempting to resolve this tangled bureaucratic web, Robyn complained repeatedly to both Councils. The Councils did not always coordinate with each other, and at times their requirements were conflicting. Neither Council initially demonstrated the kind of effective complaint handling a ratepayer should expect. One did not recognise Robyn's dissatisfaction as a complaint at all. At times, both Councils struggled to recognise the human story behind the complaints – or that a vulnerable person who had lost so much might not be familiar with the Building Act and regulations.

Robyn's mistake was building without checking the permit – but it was repeatedly compounded by the actions of others. Both Councils have tried to work with Robyn but have struggled to find a solution, and we wait to see if this investigation finally produces one.

In any event, Robyn's story is worth telling. It is a reminder to all councils of why the most basic hallmarks of good complaint handling are important – especially when a matter is complicated and protracted. Councils need to communicate clearly and consistently, to use their discretion, to find flexible solutions and to give reasons for their decisions. They need to treat dissatisfaction as a complaint and respond appropriately, rather than adopting a defensive position.

While her circumstances may be unique, aspects of Robyn's story could happen to any of us. We all make mistakes, but when they are compounded by officialdom we should expect agencies to help us find solutions. Our vulnerabilities should be acknowledged and reflected in how we are treated. We are all human; behind every complaint is a human story needing to be heard.

Deborah Glass

Ombudsman

Background

'I am a 72-year-old widow who lives with a family member whose life is maintained by a life support machine. We are a family already under the pump. I was 67 when this started, I have not been able to make decisions regarding how best to prepare for ageing. I have suffered from anxiety and sleeplessness and related physical and mental health issues. My family member has been subjected to years of insecurity when I had wanted to provide him with a safe and secure environment.'

- Robyn

The complaint

1. On 2 March 2022, Robyn* made a complaint to the Victorian Ombudsman about two local councils and a Building Permit issued for a building on her property.
2. The building was built in 2015 after the Black Saturday bushfires had destroyed everything on Robyn's land, including her home. The structure was built as a detached, habitable space for Robyn's adult son, so he could live close to her and use his dialysis machine, which was specially installed by a hospital.
3. In her complaint, Robyn said that at the time of construction, she believed she had the right paperwork to build a habitable building, but she did not. According to the Building Permit, the building should be a shed.
4. Robyn's complaint is about:
 - Mitchell Shire Council which issued the Building Permit
 - Yarra Ranges Shire Council, Robyn's local council, which ordered her to stop using the building as a habitable building.

5. Robyn stated that Mitchell Shire Council incorrectly issued her with the wrong kind of Building Permit, and that both Councils have failed to find a solution to her problem, causing her significant anxiety and distress over a long period of time.

Why we investigated

6. Robyn claims that for over six years, she has attempted to follow instructions from both Yarra Ranges Shire Council ('Yarra Ranges Shire') and Mitchell Shire Council ('Mitchell Shire') to gain a Final Certificate for her building, with no success.
7. Robyn is in her early 70s. Seeking a solution from the Councils continues to take time out of her retirement years. Robyn has been a strong advocate for herself and her son, despite dealing with some difficult personal circumstances:
 - Robyn and her son are survivors of the Black Saturday bushfires which destroyed their home in 2009.
 - Robyn's husband died a few months before the construction of the building began.
 - At the time of construction, Robyn's adult son required the use of a dialysis machine for up to seven hours every second day.

*To protect the privacy of the complainant, she is referred to throughout this report by the pseudonym 'Robyn'.

Figure 1: Robyn's building



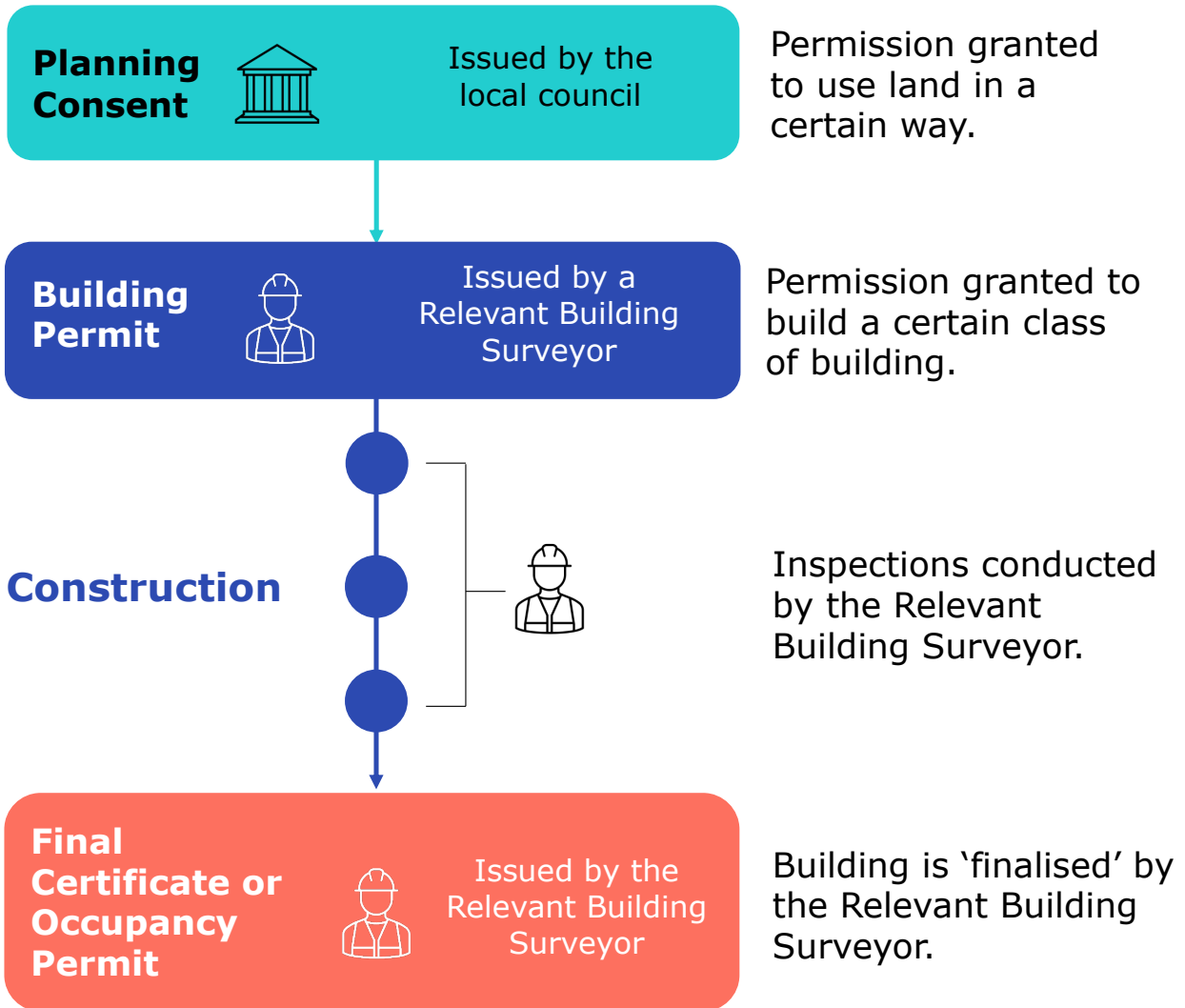
Source: Bushfire Audit Report, December 2020

8. While these vulnerabilities do not define Robyn, they should have signalled to the Councils that extra care and discretion may be required. Their apparent failure to provide these has led to intervention from the Ombudsman.
9. In August 2022, we attempted to resolve Robyn's complaint through conciliation. In this process, we brought both Councils and Robyn together to try and reach a resolution, without the need for an investigation.
10. This process was not successful, partially because the parties could not agree on the key facts, or who was responsible for fixing the problem.
11. The Ombudsman decided to investigate the matter further to establish common facts and where responsibility for resolving the matter might lie.

Legislation and key terms

12. In Victoria, domestic construction is governed by the *Planning and Environment Act 1987* (Vic), the *Building Act 1993* (Vic) and associated regulations.
13. The *National Construction Code* ('the Code') sets out the minimum standards for the safety and accessibility of certain buildings in Australia. Under the Code, buildings have different classes based on how they will be used. A Building Permit, issued by a Building Surveyor, will state what class of building has been approved for construction.
14. The two building classes relevant for this investigation are:
 - Class 1a: a habitable dwelling (finalised through an Occupancy Permit) or an associated habitable outbuilding (finalised through a Final Certificate)
 - Class 10a: a non-habitable shed, carport or private garage (finalised through a Final Certificate).
15. When a Building Surveyor is appointed to issue a Building Permit, they become the 'Relevant Building Surveyor' for that building project. This means only they can issue the Final Certificate for that building upon the completion of the works listed on the Building Permit.
16. There are two types of Building Surveyors, and either type can become the Relevant Building Surveyor for a building:
 - Municipal Building Surveyors are employed by a council and have broader responsibilities for the safety of buildings in their municipality.
 - Private Building Surveyors are private service providers.

Figure 2: Building process in Victoria



Source: Victorian Ombudsman

Context

Black Saturday bushfires 2009

17. In February 2009, the Black Saturday bushfires in Victoria led to the deaths of 173 people, injured a further 414 people and destroyed more than 2,000 homes, including Robyn's.
18. Much of this devastation was in the region where Robyn lives.
19. Research shows that survivors of the Black Saturday bushfires can have lasting psychological impacts from their experiences of the destruction of their homes and losing loved ones and neighbours. Robyn is no exception.

Municipal Building Surveyors

20. Municipal Building Surveyors are appointed by councils to promote and protect public safety within their municipality.
21. Although Municipal Building Surveyors are council employees, they hold a special statutory role within the council and have powers and responsibilities under the Building Act. These powers include issuing Building Permits and Final Certificates.
22. Municipal Building Surveyors are usually supported in this work by the building department at a council. Under the Building Act, Municipal Building Surveyors can delegate some of their powers and responsibilities to other council employees who have the right registration, such as a registered building surveyor or a registered building inspector.

Councils issuing Building Permits outside of their boundaries

23. Usually, a Municipal Building Surveyor at a council will issue Building Permits for buildings within the council's municipal boundaries. However, it is possible under the Building Act for a Municipal Building Surveyor to issue a Building Permit for a building outside of that council's bounds.
24. Particularly in response to natural disasters, like the Black Saturday bushfires, Municipal Building Surveyors can help other councils by issuing Building Permits, to ensure a faster rebuild.
25. However, this practice can come with complications and can lead to confusion.
26. This practice appears to be less common than it was in 2014 when Robyn's Building Permit was issued. Some Municipal Building Surveyors have stopped issuing Building Permits altogether, regardless of whether a building is within the council's boundaries or not.

Responding to persons living in sheds

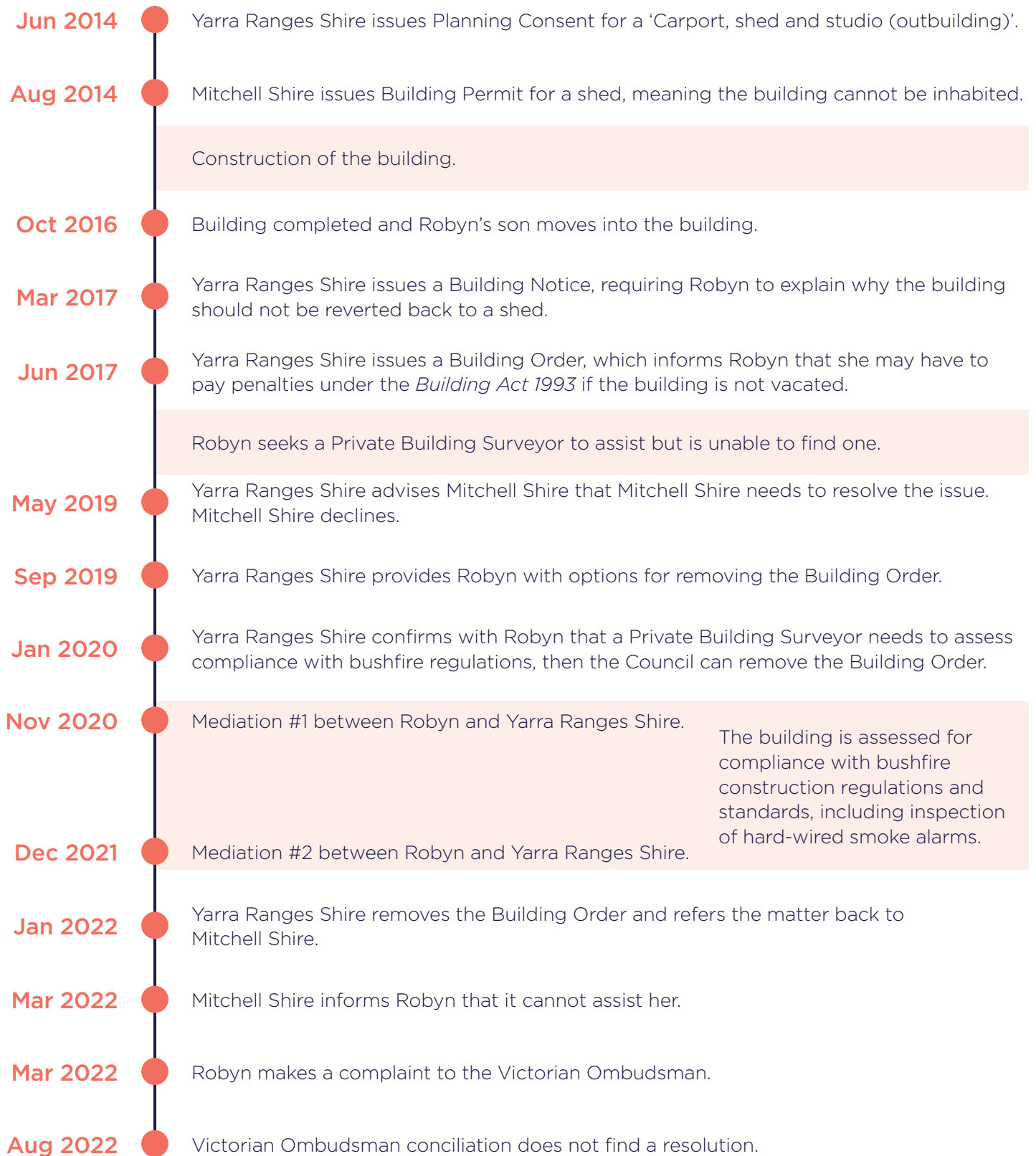
27. Councils are obligated to respond where there is evidence that a person is living in a shed, especially in a bushfire zone. Sheds are not built to the proper specifications to protect human life in the event of a bushfire.
28. Under the Building Act, Municipal Building Surveyors have broad obligations to ensure the safety of buildings in their municipality. If a Municipal Building Surveyor becomes aware that a person is living in a shed within their council boundaries, they are obligated to act.

29. A council may respond by inspecting the building and considering 'enforcement actions', like issuing a Building Notice, or a more serious Building Order, directing the owner to stop living in the building.

Unavailability of Building Surveyors

30. Building Surveyors require professional indemnity insurance to conduct their work, as they make important decisions about building safety.
31. In 2018, Building Surveyors across Australia faced a crisis of insurance due to issues with combustible cladding on apartment buildings. The insurance premiums became more expensive, and the number of available Building Surveyors declined.
32. If a Relevant Building Surveyor loses insurance, they can no longer perform their role. Where this occurs, a Building Permit may become 'orphaned', meaning the building is never finalised as no one is able to sign it off. The problem of orphaned Building Permits in Victoria is widespread. It is estimated that this problem impacts thousands of Victorians every year.
33. To resolve an orphaned Building Permit, a building's owner usually needs to hire another Building Surveyor to take over the role of Relevant Building Surveyor. However, finding a Building Surveyor can be challenging, especially in cases like Robyn's where Building Surveyors may be hesitant to take on projects that are deemed complex.

Figure 3: Timeline of relevant events



Source: Victorian Ombudsman

Procedural fairness

34. The investigation is guided by the civil standard of proof, the balance of probabilities, in determining the facts of the investigation taking into consideration the nature and seriousness of the matters examined, the quality of the evidence and the gravity of the consequences that may result from any adverse opinion.
35. This report includes adverse comments about the administrative decisions of Mitchell Shire Council and Yarra Ranges Shire Council. In accordance with section 25A(2) of the *Ombudsman Act 1973* (Vic), the investigation provided both Councils with a reasonable opportunity to respond to the material in this report. This report fairly sets out their responses.
36. This report also includes adverse comments about Robyn's builder, who remains unnamed in the report. In accordance with section 25A(2) of the Ombudsman Act, the investigation provided the builder with a reasonable opportunity to respond to the material in this report. This report fairly sets out their response.
37. In accordance with section 25A(3) of the Ombudsman Act, any other persons who are or may be identifiable from the information in this report are not the subject of any adverse comment or opinion. They are named or identified in the report as the Ombudsman is satisfied that:
 - it is necessary or desirable to do so in the public interest
 - identifying those persons will not cause unreasonable damage to those persons' reputation, safety, or wellbeing.

The problem

38. Robyn's problem is clear. Robyn has built a habitable building on the wrong type of Building Permit. Technically the building is considered to be a shed, which means that her son cannot legally live in the building.

39. Understanding how this problem came to be is complicated. Robyn and the Councils have different ideas about why this problem has occurred:

- Robyn claims that Mitchell Shire issued her with the wrong type of Building Permit.
- Both Councils maintain that Robyn was responsible for checking that she had the right kind of Building Permit before constructing the building.

40. These different stances have underpinned all the interactions between Robyn and the Councils, making it difficult to resolve the problem. Having two Councils involved has added complexity.

41. This chapter examines the following questions:

- Why was the Building Permit issued for a shed?
- Why did Robyn think she had the right type of Building Permit?
- What actions did Yarra Ranges Shire take?

Why was the Building Permit issued for a shed?

Why was Mitchell Shire approached for a Building Permit?

42. In June 2014, Robyn engaged a builder to assist with the construction of the building. In their responses to the investigation, both Robyn and her builder agreed that the plan was:

- the builder would only work on the structural component of the build
- Robyn and her son would fit out the habitable component of the building themselves, to save costs.

43. Usually, a Building Permit will be issued by a Municipal Building Surveyor at the relevant local council, or a Private Building Surveyor.

44. For Robyn's building, the builder applied for the Building Permit on Robyn's behalf. This practice was not uncommon. In September 2016, changes to the Building Act came into force prohibiting builders from appointing Building Surveyors on an owner's behalf, in recognition that this can lead to problems.

45. Even though Robyn's building was in the Yarra Ranges Shire municipal area, the builder applied to Mitchell Shire for a Building Permit on 3 July 2014.

46. Robyn told the investigation that the builder made this decision as he believed it would be 'faster'.

47. Mitchell Shire states that its Municipal Building Surveyor at the time issued the Building Permit under section 216C of the Building Act. This section allows Municipal Building Surveyors to issue Building Permits for buildings outside their municipal boundaries, with the consent of their council.

48. In 2015, Mitchell Shire stopped issuing Building Permits for buildings outside of its municipal boundaries.

Why was the Building Permit issued for a shed?

49. In August 2014, the Municipal Building Surveyor in the role at Mitchell Shire at the time issued a Building Permit allowing the construction of a class 10a shed, which cannot technically be inhabited.
50. The misalignment between the Building Permit issued and the intended use of the building has created multiple problems. Most importantly, a Final Certificate for a habitable building cannot be issued.

51. Mitchell Shire told the investigation that its Municipal Building Surveyor issued the Building Permit for a shed as that is what Robyn's builder applied for.

What was in the Building Permit application?

52. On the application for the Building Permit, Robyn's builder listed the proposed use of the building as 'Storage. Shed'.
53. Robyn stated that she was not aware that her builder had listed an incorrect purpose for the structure, as the application form was submitted by the builder without her input.
54. Council records demonstrate that Robyn also never received a copy of the Building Permit from the Council.

Figure 4: Excerpt from Robyn's Building Permit

3. This building is not to be used as a HABITABLE building (it's not suitable for human habitation) at any time without a Building permit being issued for a change of use. It must not contain facilities that could be used for cooking, eating or sleeping.

Source: Building Permit issued 4 August 2014

Figure 5: Excerpt from the Building Permit application form

NATURE OF BUILDING WORK*			
Construction of a new building	<input checked="" type="checkbox"/>	Alterations to an existing building	<input type="checkbox"/>
Demolition of a building	<input type="checkbox"/>	Removal of a building	<input type="checkbox"/>
Extension to an existing building	<input type="checkbox"/>	Change of use of an existing building	<input type="checkbox"/>
Re-erection of a building	<input type="checkbox"/>	Other	<input type="checkbox"/>

Proposed use of building⁴ *storage. shed*

*Tick if applicable or give other description

Source: Building Permit application form submitted 3 July 2014

Did Robyn know her Building Permit was for a shed?

55. Mitchell Shire accidentally listed the wrong person's name, address and phone number on the Building Permit. The person that the Council listed on the Building Permit was a resident of an aged care home.
 56. This error meant that Robyn:
 - never received a copy of her Building Permit from the Council and did not see that she had the wrong type of Building Permit
 - never received the notice from Mitchell Shire informing her that her Building Permit was set to expire in August 2016.
 57. Robyn claims that the first time she became aware that she had the wrong type of Building Permit was much later, in 2017 after the construction of her building was complete.
60. In their response to the investigation, the builder said that they advised the Council that the Building Permit was only for the structural component and that Robyn would be required to apply for a new Building Permit when fitting out the habitable section.
 61. As the Council's building department was liaising directly with Robyn's builder, it did not have discussions with Robyn about the purpose of the building.
 62. In its response to a draft of this report, Mitchell Shire stated that a building surveyor is entitled to rely on the information provided in a Building Permit application form.
 63. For clarity, this report makes no adverse comment about the Municipal Building Surveyor who issued the Building Permit, as the Building Permit issued was consistent with the application.

Did Mitchell Shire adequately consider all of the paperwork?

58. In her complaint to the Ombudsman, Robyn raised her concerns that Mitchell Shire had not properly considered the paperwork for her building. Robyn claims that if the Council had done so, it would not have issued the Building Permit for a shed.
59. Mitchell Shire's building department was aware that there was a 'studio' component to the building, as it asked the builder for a 'statement of use' for the studio, as well as asking about proposed sleeping quarters. The building department was also aware that the building was costed at \$77,000 and had two levels and a spiral staircase.

Why did Robyn think she had the right type of Building Permit?

64. As Robyn was taking on the role of builder for the habitable part of the building, she was responsible under the Building Act for notifying Mitchell Shire of this and making sure that she had the right kind of Building Permit. This did not occur.
65. In 2016, Robyn and her son completed the habitable section of the building themselves, without checking that they had the right kind of Building Permit.
66. For both of the Councils, this non-compliance has underpinned their approach to dealing with Robyn's problem.

67. However, there are mitigating factors that both Councils could have reasonably considered, including:
- Mitchell Shire's clerical error of putting the wrong owner's name and contact information on the Building Permit
 - the amended planning process after the Black Saturday bushfires
 - Robyn's disagreement with her builder about what the builder had told her about the Building Permit application
 - Robyn's vulnerabilities at the time.

Mitchell Shire's clerical error

68. Because Mitchell Shire listed the wrong person's name and contact details on the Building Permit, Robyn did not receive a copy from the Council when it was issued. This means she missed her initial opportunity to see that Mitchell Shire's Municipal Building Surveyor had issued her with a Building Permit that did not match her plans.
69. While Mitchell Shire told the investigation that it verbally acknowledged this error to Robyn, we saw no evidence that Mitchell Shire put this in writing. It is unclear how much Mitchell Shire has acknowledged the impact that this clerical error has had on Robyn and the case.
70. On multiple occasions both Councils have instructed Robyn that she had the wrong type of Building Permit, even though Mitchell Shire did not provide Robyn with a copy of the Building Permit in the first place. Yarra Ranges Shire was unaware of this clerical error.
71. In response to a draft of this report, Mitchell Shire apologised for the clerical error and stated that it was regrettable and may have created confusion. However, Mitchell Shire maintained that this error is not relevant to the decision making of the Council regarding future solutions for Robyn's building.

Planning process after the Black Saturday bushfires

72. In Victoria, under the *Planning and Environment Act 1987*, owners must seek a Planning Permit from their local council before commencing building work.
73. Robyn sought planning consent from her local council, Yarra Ranges Shire, however, Robyn's building did not move through the usual planning process.
74. After the Black Saturday bushfires, on 14 May 2009, an amendment to the Victorian Planning Provisions (clause 52.39) came into force that allowed eligible properties to skip the usual planning process, allowing homes to be rebuilt faster.

Figure 6: Excerpt from Robyn’s rebuild consent letter

CONSENT FOR REBUILDING FOR BUSHFIRE RECOVERY PROVISIONS UNDER CLAUSE 52.39	
Consent Reference	█-2013/12
Location	█
Proposal	'Bushfire Recovery' Construction of a carport, shed and studio (outbuilding)

Source: Yarra Ranges Shire letter to Robyn 16 June 2014

75. In June 2014, Yarra Ranges Shire issued a rebuild consent letter that:
- exempted Robyn from the usual planning process
 - provided consent for Robyn to rebuild a ‘carport, shed and studio (outbuilding)’ on her land.
76. The rebuild consent letter may have been confusing for someone not in the building industry. It did not outline what class of building was allowed, and the words ‘studio (outbuilding)’ can mean different things to different people.
77. The content of this letter is prescribed by the *Planning and Environment Act 1987* and associated provisions, which does not require the class of building to be listed on a rebuild consent letter, or in normal circumstances, on a Planning Permit.
78. Robyn told the investigation that she interpreted the word ‘studio’ to mean a class 1a habitable building. To someone in the building industry, ‘studio’ may also mean a class 10a non-habitable building.
79. Robyn had lost a habitable outbuilding in the bushfires, so she reasonably believed that a ‘rebuild’ consent letter would allow her to rebuild what she had before.
80. Robyn told the investigation that she thought her Building Permit would be consistent with her rebuild consent, which was for a habitable building.

81. In its response to a draft of this report, Yarra Ranges Shire confirmed that Robyn does have planning consent to build a habitable outbuilding.

Disagreement with the builder

82. Robyn stated that she had trusted her builder to apply for the right kind of Building Permit on her behalf.
83. According to their responses to the investigation, there is disagreement between Robyn and her builder regarding whether the builder informed her that they were only applying for a Building Permit for the structural portion of the building.
84. The Victorian Ombudsman cannot investigate the actions of a private builder, however it is relevant to note that:
- the builder did not have the proper registration, and Robyn said that the builder did not make this clear to her
 - the builder listed a different builder (one with the right type of registration) on the building contract
 - both Robyn and her builder agree that there was a significant deterioration of their working relationship towards the end of the builder’s engagement in 2014
 - Robyn has made a complaint to the Victorian Building Authority about this builder.

What action did Yarra Ranges Shire take?

85. In March 2017, five months after the building was completed and Robyn's son moved in, Yarra Ranges Shire (Robyn's local Council) received a complaint that a person was living in a building classed as a shed on Robyn's property.
86. The building was not finalised as no Final Certificate had been issued under the Building Act. Robyn stated that she was unaware that she needed a Final Certificate.
87. Without a Final Certificate, there was no record to show that the building was constructed to the right specifications to be a habitable building, or that it could protect human life in the event of another bushfire.
88. Yarra Ranges Shire inspected the building and on 29 March 2017 issued Robyn a Building Notice which required Robyn to provide reasons for why the building should not be reverted back to a class 10a shed.
89. Robyn told the investigation that because she had never received any notices from Mitchell Shire (due to the Council listing the wrong person's details on the Building Permit), this enforcement action by Yarra Ranges Shire was the first time that she learnt that:
 - her Building Permit was for a shed, not a habitable structure
 - her Building Permit had lapsed in August 2016
 - the building required a Final Certificate.
90. Robyn told the investigation that it was not reasonably possible for her to turn the building into a shed, as this would have required her son to move out of the building where his dialysis machine had been installed by the hospital.
91. On 14 June 2017, Yarra Ranges Shire issued a Building Order to Robyn.
92. A Building Order is enforceable in court and breaching one is an offence. If Robyn breached the order, she could have been required to pay a penalty of over \$77,000. Receiving this Building Order was distressing for Robyn who had only found out there was an issue with the building three months before.

Figure 7: Excerpt from the Building Order

NOW THEREFORE TAKE NOTICE THAT: within (Sixty) 60 days (by 13 August 2017) of the service date of this Order;

The **Occupation** of the Building (Shed) is prohibited other than for the use as a non habitable building; and,

You should carry out the following **Building work** in relation to the building, land or place:

- 6.1** Revert the Shed (Non Habitable Class 10) Building back to be in accordance with the Building Permit approval issued by [REDACTED] [REDACTED] dated 4 August 2014

Source: Yarra Ranges Shire Building Order issued 14 June 2017

Council responses to the problem

93. At the time of Robyn's complaint to the Ombudsman in 2022, she had been communicating with both Councils attempting to find a resolution for five years.
94. The delay in this matter has reportedly caused distress to Robyn and her family.
95. This chapter examines the following questions:
- Which Council is ultimately responsible for Robyn's building?
 - Why has it taken so long for this matter to be resolved?
 - Have the Councils practised good complaint handling in relation to Robyn's concerns?
100. Neither of these processes have occurred.
101. The Municipal Building Surveyor at Yarra Ranges Shire is unable to be the Relevant Building Surveyor, as they have already issued a Building Order on the building and are therefore conflicted.
102. This means that the Municipal Building Surveyor at Mitchell Shire Council has ongoing legal and professional responsibilities regarding Robyn's expired Building Permit. This places pressure on Mitchell Shire to respond.
103. Under the Building Act, it is not possible for Mitchell Shire's Municipal Building Surveyor to:

- amend an expired Building Permit
- issue a retrospective Building Permit for the works already undertaken
- issue a Final Certificate for a class 1a habitable building when the Building Permit was for a class 10a shed.

Which Council is responsible for Robyn's building?

96. Robyn's Building Permit was for a class 10a shed and expired in August 2016.
97. To resolve her problem, Robyn needs a Relevant Building Surveyor to issue her with a new Building Permit for a habitable building, so that she can work towards the issuing of a Final Certificate.

Who is the Relevant Building Surveyor?

98. The current Municipal Building Surveyor at Mitchell Shire is the Relevant Building Surveyor for Robyn's Building Permit, even though the Building Permit has expired.
99. Under section 80C of the Building Act, the functions of a Relevant Building Surveyor can be transferred from one Building Surveyor to another if all parties consent. The Victorian Building Authority may also choose to remove a Relevant Building Surveyor from their role and appoint a new one; however, this would require a new Building Surveyor being willing to take the appointment.
104. Robyn needs a new Building Permit for a habitable building.
105. Guidance from the Victorian Building Authority states that if a Building Permit expires and a new Building Permit is required for the building work, the owner must seek the new Building Permit from the same Relevant Building Surveyor that issued the original Building Permit.
106. However, as the new Building Permit would be for a different class of building in Robyn's case, this requirement is less clear. Rather than being required to, Mitchell Shire can decide whether or not to provide consent for its Municipal Building Surveyor to perform this role.

107. Mitchell Shire told Robyn that it no longer provides consent for its Municipal Building Surveyor to issue Building Permits for buildings outside of its municipal boundaries.
108. This is a policy position, partially underpinned by uncertainty about whether the Council has insurance to allow its Municipal Building Surveyor to act outside of the Council's boundaries.
109. However, the Council had not sought specific advice from its insurer regarding Robyn's building. Instead, its position was based on a general notice from its insurer.
110. The investigation has confirmed that there are no insurance constraints on Mitchell Shire acting outside of its boundaries.
111. In its initial response to a draft of this report, Mitchell Shire stated that due to risks associated with building work that has not been inspected for quality during construction, Mitchell Shire had decided to undertake no further role regarding the building.
112. In a later response to the investigation, Mitchell Shire outlined further reasoning as to why seeking a new Building Permit may not be a favourable option for Robyn. It advised that the process could be complicated and costly to the owner, as it could require destructive testing and further building work to be completed.
113. In this context, destructive testing is where parts of the building would need to be destroyed for a Building Surveyor to confirm compliance with the Building Act.

Why has the problem continued for so long?

114. Robyn's problem has been ongoing since 2017 and remains unresolved. In addition to Mitchell Shire's decision to not provide consent for its Municipal Building Surveyor to consider a new Building Permit application, there are other factors that have contributed to this length of time including:
 - Mitchell Shire did not conduct inspections after Robyn's Building Permit expired in 2016
 - the complication of having of two different Councils involved
 - unclear communication from the Councils and subsequent misunderstandings.

Inspections by Mitchell Shire

115. In August 2016, Robyn's Building Permit expired, and the building had not been finalised. This did not prompt Mitchell Shire to perform any further enquiries or inspections regarding the building.
116. If such inspections had taken place, Robyn's problem may have been identified sooner, and Yarra Ranges Shire may not have needed to become involved in 2017.
117. This may have prevented the involvement of two Councils, which has made matters more complicated and led to delays.

Complication from the involvement of two Councils

118. By 2017, Robyn had two problems:

- Yarra Ranges Shire had issued a Building Order
- Mitchell Shire was yet to finalise the building.

119. The interconnectedness of these issues led to delays and conflicting requirements, putting Robyn's building into a catch-22 cycle.

Conflicting requirements

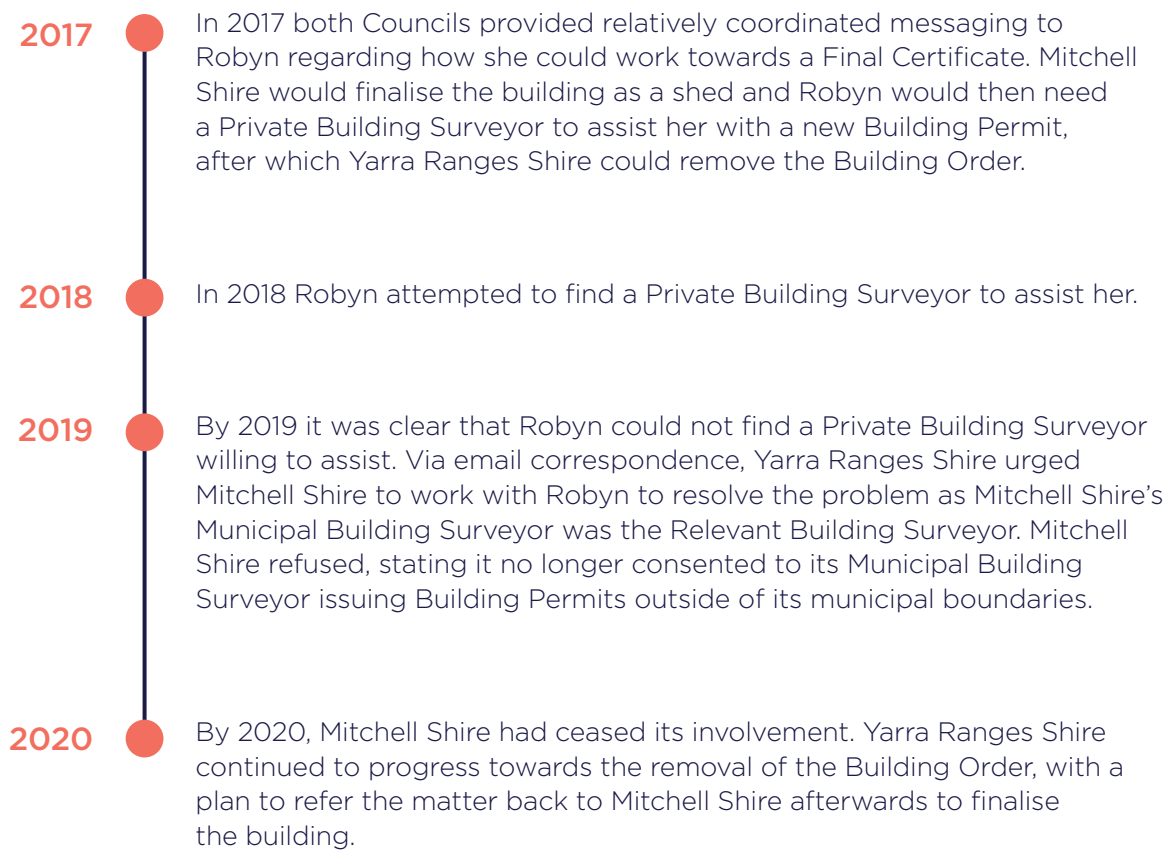
In December 2017, Mitchell Shire was ready to finalise the building as a shed. Following this, Robyn could apply for a new Building Permit.

However, in January 2018, Yarra Ranges Shire suggested that Mitchell Shire could not finalise the building until Yarra Ranges Shire had removed the Building Order. The Building Order was not removed for another four years.

To remove the Building Order, Yarra Ranges Shire required Robyn to make changes to the building that would make it safer for habitation. However, making these changes would mean that Mitchell Shire would then not be able to finalise the building as a shed.

120. Communication between the Councils showed disagreement about their roles and responsibilities over time, and a lack of coordination.

Figure 8: Timeline showing Council approaches



Source: Victorian Ombudsman

121. However, the Councils were not coordinated on this plan. Despite Mitchell Shire having already stated it would not be further involved, Yarra Ranges Shire attempted to hand the matter over to Mitchell Shire in 2022.

Lack of coordination between Councils

In January 2022, after years of compliance work with Robyn, Yarra Ranges Shire removed the Building Order and referred the matter back to Mitchell Shire. This handover included a meeting between the Council Chief Executive Officers ('CEO'), and Yarra Ranges Shire providing over 30 documents, certificates and reports to Mitchell Shire, to help it consider Robyn's matter.

Both Robyn and Yarra Ranges Shire had been working towards this handover for over four years.

Robyn did not hear back from Mitchell Shire after the handover; and in March 2022, she enquired with Mitchell Shire on the next steps. The Council responded with a short email informing Robyn that it would not deal with her matter.

This email confirmed that:

- the Building Permit had lapsed
- Mitchell Shire no longer issued Building Permits external to its municipal boundaries
- Robyn would need to find a Private Building Surveyor.

According to Robyn, this was distressing for her, given her belief that she had been working towards a solution for her building. After years of work, Robyn was back at the start.

122. Mitchell Shire told the investigation that it has always delivered a consistent message to Robyn, with cooperation from Yarra Ranges Shire, and has at all times acted in a considerate and professional manner towards Robyn.

123. Yarra Ranges Shire told the investigation that in all its dealings with Robyn it had articulated the two separate and distinct roles of each Council.

Poor communication

124. The investigation reviewed communications to Robyn from both Councils, over a number of years. The below example shows how unclear communication has led to confusion.

Technical language and options without clear outcomes

In 2019, Yarra Ranges Shire sent Robyn a letter providing three options to work towards the removal of the Building Order. At the time of this letter, Robyn had already been seeking a solution for over two years and had been unable to find a Private Building Surveyor to assist and advise her.

Understanding the requirements of the Building Act and the associated regulations is difficult for any person not in the building industry. The investigation also could not fully understand the options that Yarra Ranges Shire's letter was trying to communicate.

One of the options required that Robyn provide a suite of information to Yarra Ranges Shire justifying the change of use from a shed to a habitable building. But it is not clear what solution this option would be working towards, and whether this would mean that Yarra Ranges Shire's Municipal Building Surveyor would formally sign off on the building as a class 1a habitable building.

The letter to Robyn contained pages of technical instructions and requirements:

- (a) Documentary evidence to support the use of a material, form of construction or design in a form referred to in clause A2.2 of the BCA Volume One or clause 1.2.2 of the BCA Volume Two;
- (b) A survey plan of existing site conditions prepared by a licensed surveyor within the meaning of the Surveying Act 2004;
- (c) If the allotment is under the operation of the Transfer of Land Act 1958, a copy of the certificate of title to the allotment;
- (d) Evidence of ownership of the allotment or evidence that a contract has been entered into pursuant to section 9AA of the Sale of Land Act 1962 in relation to the allotment;

Yarra Ranges Shire told the investigation that the letter was necessarily technical, to inform the owner and their Relevant Building Surveyor of what is required under the building regulations. Yarra Ranges Shire said that it continued to have conversations with Robyn to explain these requirements.

125. To address Robyn's problem, multiple meetings were held across the years, including:
- meetings with the Municipal Building Surveyors from both Councils
 - multiple meetings attended by Robyn's local Member of Parliament, to assist in advocating for Robyn
 - two formal mediations, conducted by a private mediator, arranged and paid for by Yarra Ranges Shire
 - meetings between the CEOs of both Councils.

126. For many of these meetings, Robyn attended with support people (friends and family members).

127. There were multiple instances where Robyn, her support people, and Yarra Ranges Shire came away from a meeting with different ideas or interpretations about what was agreed.

128. There was ongoing confusion and disagreement between Robyn and Yarra Ranges Shire about:

- what role the Council had in finding a solution for Robyn
- what outcome was being worked towards
- what elements Yarra Ranges Shire would pay for.

Lack of clarity about Yarra Ranges Shire's role in finding a solution

By 2019, Yarra Ranges Shire had stopped trying to find a solution to Robyn's problem of not having a Final Certificate. This is not unreasonable, as Yarra Ranges Shire was not the Relevant Building Surveyor and was not able to perform this role.

Yarra Ranges Shire's interest in Robyn's building related to the Building Order it had issued in 2017. However, it is not evident whether the Council made this shift in its approach clear to Robyn. The issue of whether Yarra Ranges Shire was just addressing the Building Order or assisting Robyn to finalise the building continued to fuel confusion.

On 10 January 2020, a meeting was held between Robyn (with her support people) and Yarra Ranges Shire. In her complaint to the Ombudsman, Robyn claimed that at this meeting Yarra Ranges Shire told her that if she supplied a Bushfire Compliance Report, it would sign-off on the building as a class 1a habitable building. After this meeting, Robyn's friend who was in attendance (and had spent her career within the building industry) later signed a statutory declaration stating that Yarra Ranges Shire had agreed to cover costs associated with 'getting the building to sign off' and that if Robyn provided a Bushfire Compliance Report, 'the matter would be sorted'.

The recollections of Robyn and her friend do not match the Council's position. In its response to a draft of this report, Yarra Ranges Shire maintained that it had always been clear with Robyn that the compliance work would only get the Building Order removed, and that finalising the building would need to be referred to Mitchell Shire. It also refuted the position put forward in Robyn's friend's statutory declaration.

There are no notes of this meeting, and it is not clear where this disagreement has come from.

Was Council complaint handling adequate?

129. Complaint handling is a core responsibility for councils.
130. Throughout their management of Robyn's matter, the Councils at times handled her complaints poorly, including failing to:
 - sensitively consider Robyn's wellbeing
 - acknowledge complaints
 - adequately respond to complaints.

Failure to sensitively consider wellbeing

131. Throughout Yarra Ranges Shire's engagement with Robyn, the Council was aware of the welfare impacts the situation was having on Robyn, a vulnerable ratepayer.
132. In 2014, when the building was being constructed, Robyn was dealing with several difficult circumstances:
 - Robyn's husband had died a few months earlier and she was dealing with complex family circumstances in relation to this death causing significant stress and anxiety.
 - Robyn's son was using a dialysis machine for up to seven hours every second day.
 - This was a bushfire rebuild – and as a survivor of the Black Saturday bushfires Robyn was living with the impacts of her experience.

133. In light of these circumstances, Yarra Ranges Shire did not always adequately use its discretion when engaging with Robyn. A key example of this is Yarra Ranges Shire's insistence that Robyn reapply for extensions to the Building Order every 60 days.
134. Receiving a Building Order is a distressing event. For Robyn and her son, this Building Order meant that:
 - her son was not legally able to live in the building, where his dialysis machine had been installed by the hospital
 - the building may not be insured for future bushfire seasons
 - there could be penalties and legal action if they did not comply.
135. As Robyn could not comply with the Building Order within 60 days, Yarra Ranges Shire required her to apply for extensions to the Building Order. It did this at least nine times. This is despite:
 - Robyn actively participating to resolve the problem
 - the Council having the discretion to set a longer time frame due to the complexity of Robyn's matter.

136. Internal documents from Yarra Ranges Shire reveal that the Council was aware of the reported psychological impact the Building Order and extension applications were having on Robyn and her son:

- **15 March 2018** – fourth request:
‘[Robyn] advises she is stuck at the moment ... She is now desperate for someone to assist ... I recommend an extension of 60 days.’
- **21 June 2018** – fifth request:
‘[Robyn] also said she is currently undergoing massive anxiety issues and along with dealing with her son’s health issues, she appears to have hit the wall somewhat. She says an ambulance has had to be called around 5 times in the past month. I recommend granting her a further 60 days ...’
- **27 November 2018** – seventh request:
‘She is experiencing major anxiety issues and feels she has no control over the situation. She just wants the matter dealt with. I recommend granting a further sixty days.’
- **7 February 2019** – eighth request:
‘[The Private Building Surveyors] have declined to continue on with the case and she is back to square one in looking for a Building Surveyor to assist her. I recommend providing a further sixty (60) days to assist her.’
- **17 April 2019** – ninth request:
‘[Robyn] is unwell due to a long period of stress which is being exacerbated by the compliance process. She has been advised to seek counselling for her anxiety issues and wants the matter resolved as soon as possible ... recommended providing a further immediate sixty (60) days extension.’

137. In its response to a draft of this report, Yarra Ranges Shire stated that the 60-day extension timeframe allowed the Council to maintain clear visibility and communication with Robyn, and that Robyn had the option to appeal to the Building Appeals Board.

138. In 2020, Yarra Ranges Shire determined that Robyn would no longer have to apply for extensions to the Building Order, as a plan had been put in place to address the Building Order.

139. The investigation acknowledges that Yarra Ranges Shire could have commenced formal legal proceedings against Robyn for failing to comply with the Building Order but used its discretion not to, in recognition of the impacts this would have on Robyn.

Failure to acknowledge complaints

140. On multiple occasions, Robyn raised concerns with Mitchell Shire regarding its handling of her matter.

141. She raised her concerns directly with the Council employees she was engaging with via email and over the phone, but she also sent a formal letter to the CEO of Mitchell Shire on 18 April 2018.

142. Despite this, Mitchell Shire did not appear to treat Robyn’s concerns as a complaint. If it had, it may have undertaken a formal review or investigation into its handling of the matter.

143. Such a review might have considered:

- the impacts of the Council's error of listing the wrong person's details on the Building Permit
- the Council's apparent failure to follow up on a building that had not been finalised after the Building Permit expired in August 2016
- whether the Council's Municipal Building Surveyor had any further functions to perform under the Building Act as the Relevant Building Surveyor
- whether the Council should seek specific advice from its insurer regarding Robyn's matter.

144. Not treating Robyn's concerns as a complaint meant that Mitchell Shire missed the opportunity to consider where its liabilities were and how it was communicating with Robyn.

Inadequate responses to complaints

145. Robyn made a formal complaint to Yarra Ranges Shire regarding 'multiple experiences of Council reneging on commitments' and 'endless bullying by Council'. In response, Yarra Ranges Shire initiated an internal review.

146. The Council had approximately 110 documents available relating to Robyn's case and considered reviewing these. However, for the purpose of efficiency, it instead asked Robyn to provide documentation to support the review.

147. Robyn provided the Council with a 22-page timeline and expressed the difficulty in collecting the requested documentation.

As there are in excess of 40 documents referred to, I am not sending these - it's beyond my computing skills. Yarra Ranges Shire has the majority of these already.

148. At this time, Robyn also expressed her concern that Yarra Ranges Shire's handling of her matter had amounted to 'elder abuse'. She wrote:

The World Health Organisation defines elder abuse as "a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person".

149. In response, Yarra Ranges Shire informed Robyn that it would review the documentation it had 'on hand' in conjunction with her supporting information.

150. Yarra Ranges Shire completed the internal review approximately 28 hours after Robyn provided her timeline.

151. There were several issues with the internal review, including that it was not comprehensive and it was unclear how the writer formed certain views and conclusions:
- The report was primarily an unreferenced timeline, lacking investigation and analysis.
 - The report did not contain specific dates when referencing key events, communications and emails between various parties.
 - The only clear source of information referenced in the report is the timeline of events provided by Robyn.
 - In lieu of reviewing Council records, at times the report dismisses the allegations on the basis that Robyn did not provide supporting evidence, or because a particular correspondence could not be located by the writer.
 - The report does not define or explain the Council's interpretation of 'elder abuse' or 'bullying'.
152. A copy of the internal review report was sent to the Yarra Ranges Shire CEO and was endorsed on 13 January 2022.
153. On 20 January 2022, the Council sent an outcome letter to Robyn, outlining that the review had concluded that there was no evidence to support her allegations of bullying and elder abuse. Robyn was not provided with a copy of the internal review report.
154. The outcome letter provided to Robyn also appears to be misleading as it stated that Yarra Ranges Shire reviewed 'documentation available across Council systems'. The Ombudsman's investigation does not believe this occurred.
155. Robyn's matter is complex, spanning multiple years of communication with the Council. It is unlikely that the Council was able to fully consider its management of Robyn's matter within 28 hours.
156. Pleasingly, in response to a draft of this report, Yarra Ranges Shire stated that it has since implemented a more robust review procedure.

Conclusions

157. Robyn's problem is unique. The exact circumstances leading to her problem – a Building Permit issued by an external council's Municipal Building Surveyor and a clerical error which meant she didn't receive her Building Permit from the Council – are unlikely to occur again. However, her story illustrates certain behaviours by local councils that may affect many Victorians.
158. This case shows Mitchell Shire failing to acknowledge when someone is making a complaint and how an initial and unresolved clerical error may have contributed to misunderstanding and error by multiple parties. This case shows Yarra Ranges Shire not always using its discretion, despite having good reason to do so. It shows both Councils communicating poorly, leading to confusion.
159. These are issues that the Ombudsman receives hundreds of complaints about every year. In hindsight, if the Councils had made different decisions about these issues, they may have caused Robyn and her son far less distress.
160. Robyn has reported that she tried to do the right thing and thought that she had the right Building Permit. These claims, and her vulnerabilities, could have prompted both Councils to work more effectively together to find a solution.
161. However, no solution has been found and Robyn's problem is not resolved, despite a great deal of time and effort being spent on it.

Mitchell Shire Council

162. Mitchell Shire did not conduct inspections after Robyn's Building Permit first expired in 2016. This, paired with the clerical error of listing the wrong owner's details on the Building Permit has led to delay, complication and confusion.
163. There is no evidence that Mitchell Shire has:
 - internally investigated or reviewed its involvement in Robyn's case
 - sought specific advice from its insurer in relation to Robyn's building.
164. Mitchell Shire told Robyn on multiple occasions to find a Private Building Surveyor, despite the Council being aware that most Building Surveyors would be reluctant to accept the role, due to the associated risks.
165. Under the Building Act, Mitchell Shire's Municipal Building Surveyor remains the Relevant Building Surveyor until one of the following occurs:
 - The Building Permit for a class 10a shed is finalised.
 - The Relevant Building Surveyor role is transferred to a willing Private Building Surveyor.
 - The Victorian Building Authority terminates the appointment and appoints a new Relevant Building Surveyor for Robyn's building.
166. At the time of this report, none of these options have occurred.
167. After meeting with the investigation team, Mitchell Shire confirmed that its Municipal Building Surveyor is the Relevant Building Surveyor for the expired Building Permit, however provided further reasoning as to why pursuing a new Building Permit may not be the best option for Robyn.

168. These reasons include that the process would be complicated, likely requiring destructive testing and further building work to be completed, which could come at significant cost to Robyn.
169. Mitchell Shire further clarified that as Yarra Ranges Shire has removed the Building Order from Robyn's building, Mitchell Shire can see no impediment to Robyn using the building as a habitable building, and that this may be the most practical outcome for Robyn's building.
170. The removal of the Building Order means that Yarra Ranges Shire (Robyn's local council) is satisfied that the life, health and safety issues associated with the building have been addressed.
171. The investigation understands that, ultimately, Robyn will need to decide between the following two options:
- pursuing a new Building Permit, to work towards a Final Certificate
 - taking no further action, in recognition that the removal of the Building Order provides a level of comfort that the building can be used as a habitable building.
172. Mitchell Shire acknowledged that the Council's written communication to Robyn regarding these options could have been clearer.
173. Helpfully, in its final response to the investigation, Mitchell Shire confirmed that if Robyn did want to pursue a new Building Permit, the Council would consider her application and determine whether it should engage another Building Surveyor to assist with the consideration of this application.

Yarra Ranges Shire Council

174. It was reasonable and necessary for Yarra Ranges Shire to take enforcement action against Robyn's building in 2017. However, Yarra Ranges Shire's poor communication at times and unclear goals led to reported anxiety and distress for Robyn.
175. There is evidence that Yarra Ranges Shire did, on many occasions, attempt to assist Robyn in good faith. Yarra Ranges Shire paid for two mediations, run by a qualified mediator, in an attempt to move the matter forward. Yarra Ranges Shire also undertook a reasonable strategy to remove the Building Order which avoided court proceedings and allowed:
- Robyn's son to remain living in the building
 - Yarra Ranges Shire to address the most pressing health and safety concerns.
176. Yarra Ranges Shire also paid the fees for this strategy, which would usually fall on the owner.
177. However, this strategy took a long time, and Yarra Ranges Shire's communication with Robyn regarding this strategy and the end goal could have been clearer.
178. In light of the circumstances, Yarra Ranges Shire's continued requirement for Robyn to apply for extensions to the Building Order every 60 days was oppressive.
179. In contrast to Mitchell Shire, Yarra Ranges Shire did undertake an internal review into its management of Robyn's matter. However, this review was poorly and hastily done.

180. It is positive that since the handover of Robyn's matter to Mitchell Shire in January 2022, Yarra Ranges Shire has advocated for Robyn to Mitchell Shire. This effort includes multiple communications, including a letter from the Yarra Ranges Shire CEO, urging action from Mitchell Shire.

181. Yarra Ranges Shire has now removed its Building Order and as it cannot act as the Relevant Building Surveyor for Robyn, it has no further role to play with Robyn's building.

What happens now?

182. Yarra Ranges Shire has removed the Building Order from Robyn's building. The letter issued to Robyn states that, in the absence of permit records, Robyn should retain the letter as 'evidence of acceptance by Council if the property is sold'.

183. The investigation understands that Robyn will need to decide whether she is satisfied to take no further action, or whether she wants to pursue a Final Certificate.

184. It is likely that the following process will need to occur for Robyn to gain a Final Certificate:

1. Robyn will need to apply for a new Building Permit from the current Relevant Building Surveyor, Mitchell Shire's Municipal Building Surveyor, or find a Private Building Surveyor willing to take on the Relevant Building Surveyor role.
2. The Relevant Building Surveyor will decide whether to accept or reject this application.

3. If the new Building Permit is issued, the Relevant Building Surveyor would likely inspect the building to determine any gaps in compliance with the requirements of the current Building Regulations. This may require destructive testing.

4. If there are gaps, Robyn could be required to complete further building work.

5. After a final inspection, the Relevant Building Surveyor could issue a Final Certificate, finalising the building as a class 1a habitable outbuilding.

185. Whether this process can be followed is uncertain, as there are many complicating factors at play, including that:

- the Relevant Building Surveyor (whomever is in the role) may yet decide to reject Robyn's application for a new Building Permit
- if destructive testing or further building work is required, Robyn is not readily able to afford this.

186. Unfortunately, it is unclear whether Robyn will ever receive a Final Certificate for her building.

Opinions

187. In light of this investigation and in accordance with section 23 of the Ombudsman Act:
1. Mitchell Shire Council's communications to Robyn stating that it did not issue Building Permits outside of its municipal boundaries was unreasonable within the meaning of section 23(1)(b), as these communications:
 - implied that Robyn could not apply to Mitchell Shire for a new Building Permit
 - did not provide a reason for this decision
 - did not clearly state the options available to Robyn
 2. Mitchell Shire Council's failure to investigate or review its management of Robyn's case and outstanding obligations towards her was unreasonable within the meaning of section 23(1)(b)
 3. Yarra Ranges Shire Council's requirement that Robyn reapply for extensions to her Building Order every 60 days was oppressive, within the meaning of section 23(1)(b).

Recommendation

Recommendation 1

That the Mitchell Shire Council Chief Executive Officer provide Robyn with a letter that includes:

- an apology for the Council's management of her matter
- a clear articulation of Robyn's options, including any benefits and risks associated with either pursuing a new Building Permit, or taking no further action, so that she can make an informed decision
- a clear statement that the Council will consider a future Building Permit application, if this is the option that Robyn would like to pursue.

Council response:

Accepted.

Appendix 1: The investigation

Authority to investigate

188. The Ombudsman's jurisdiction to investigate any administrative action taken by or in an authority is derived from section 13 of the *Ombudsman Act 1973* (Vic).
189. A council and its staff are each an 'authority' for the purpose of the Ombudsman Act.
190. Section 15B of the Ombudsman Act provides that the Ombudsman may investigate a complaint.

How we investigated

191. On 8 December 2022, the Ombudsman notified the Minister for Local Government, the CEOs and Mayors of both Councils and the complainant of her intention to investigate this matter.
192. The investigation involved:
 - serving summons on both Councils and Robyn's builder, requiring the production of documentation and correspondence
 - reviewing the complainant's detailed summary of her experience, as well as associated documents in her possession relating to the building in question
 - analysing email communications held by both Councils and the complainant
 - analysing internal briefings and legal advice held by both Councils
 - analysing the relevant Building Permit, planning documents, building specifications, Building Notices, Building Orders and certificates of compliance
 - consulting with a Private Building Surveyor to assist with the making of investigation observations
 - engaging with the Victorian Building Authority on questions relating to the operation of the *Building Act 1993*
 - engaging with other stakeholders in the industry.
193. No people were interviewed as part of the investigation, however the investigation team did meet with the complainant and Mitchell Shire Council as part of the procedural fairness process.

Victorian Ombudsman's Parliamentary Reports tabled since April 2014

2023

Investigation into the Department of Transport and Planning's implementation of the zero and low emission vehicle charge

September 2023

Joint investigation with IBAC
Operation Watts Progress report

September 2023

Misconduct in public organisations: A casebook

August 2023

WorkSafe 3: Investigation into Victorian self-insurers' claims management and WorkSafe oversight

June 2023

Complaint handling casebook: Resolving issues informally

May 2023

Councils and complaints: Glen Eira City Council's approach to contractor work

April 2023

Good Practice Guide: Complaint handling in a crisis

February 2023

2022

Ombudsman's recommendations - fourth report

September 2022

Investigation into a former youth worker's unauthorised access to private information about children

September 2022

Investigation of a matter referred from the Legislative Council on 9 February 2022 Part 1

July 2022

Joint investigation with IBAC

Operation Watts, a joint investigation into allegations of serious corrupt conduct involving Victorian public officers, including Members of Parliament

July 2022

Investigation into complaint handling in the Victorian social housing sector

July 2022

Report on investigations into the use of force at the Metropolitan Remand Centre and the Melbourne Assessment Prison

June 2022

Investigation into Environment Protection Authority decisions on West Gate Tunnel Project spoil disposal

May 2022

2021

Investigation into decision-making under the Victorian Border Crossing Permit Directions

December 2021

Investigation into allegations of collusion with property developers at Kingston City Council

October 2021

The Ombudsman for Human Rights: A Casebook

August 2021

Councils and complaints - A good practice guide 2nd edition

July 2021

Investigation into good practice when conducting prison disciplinary hearing

July 2021

Investigation into Melton City Council's engagement of IT company, MK Datanet Pty Ltd

June 2021

Investigation into how local councils respond to ratepayers in financial hardship

May 2021

Investigation into the Department of Jobs, Precincts and Regions' administration of the Business Support Fund

April 2021

Outsourcing of parking fine internal reviews – a follow-up report

March 2021

Investigation of protected disclosure complaints regarding the former Principal of a Victorian public school

February 2021

2020

Investigation into the detention and treatment of public housing residents arising from a COVID-19 'hard lockdown' in July 2020

December 2020

Investigation into complaints about assaults of five children living in Child Protection residential care units.

October 2020

Investigation into corporate credit card misuse at Warrnambool City Council

October 2020

Investigation into review of parking fines by the City of Melbourne.

September 2020

Investigation into the planning and delivery of the Western Highway duplication project

July 2020

Ombudsman's recommendations – third report

June 2020

Investigations into allegations of nepotism in government schools

May 2020

Investigation of alleged improper conduct by Executive Officers at Ballarat City Council

May 2020

Investigation into three councils' outsourcing of parking fine internal reviews

February 2020

2019

Investigation of matters referred from the Legislative Assembly on 8 August 2018

December 2019

WorkSafe 2: Follow-up investigation into the management of complex workers compensation claims

December 2019

Investigation into improper conduct by a Council employee at the Mildura Cemetery Trust

November 2019

Revisiting councils and complaints

October 2019

OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people

September 2019

Investigation into Wellington Shire Council's handling of Ninety Mile Beach subdivisions

August 2019

Investigation into State Trustees

June 2019

Investigation of a complaint about Ambulance Victoria

May 2019

Fines Victoria complaints

April 2019

VicRoads complaints

February 2019

Victorian Ombudsman's Parliamentary Reports tabled since April 2014

2018

Investigation into the imprisonment of a woman found unfit to stand trial

October 2018

Investigation into allegations of improper conduct by officers at Goulburn Murray Water

October 2018

Investigation of three protected disclosure complaints regarding Bendigo South East College

September 2018

Investigation of allegations referred by Parliament's Legal and Social Issues Committee, arising from its inquiry into youth justice centres in Victoria

September 2018

Complaints to the Ombudsman: resolving them early

July 2018

Ombudsman's recommendations – second report

July 2018

Investigation into child sex offender Robert Whitehead's involvement with Puffing Billy and other railway bodies

June 2018

Investigation into the administration of the Fairness Fund for taxi and hire car licence holders

June 2018

Investigation into Maribyrnong City Council's internal review practices for disability parking infringements

April 2018

Investigation into Wodonga City Council's overcharging of a waste management levy

April 2018

Investigation of a matter referred from the Legislative Council on 25 November 2015

March 2018

2017

Investigation into the financial support provided to kinship carers

December 2017

Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre

November 2017

Investigation into the management of maintenance claims against public housing tenants

October 2017

Investigation into the management and protection of disability group home residents by the Department of Health and Human Services and Autism Plus

September 2017

Enquiry into the provision of alcohol and drug rehabilitation services following contact with the criminal justice system

September 2017

Investigation into Victorian government school expulsions

August 2017

Report into allegations of conflict of interest of an officer at the Metropolitan Fire and Emergency Services Board

June 2017

Apologies

April 2017

Investigation into allegations of improper conduct by officers at the Mount Buller and Mount Stirling Resort Management Board

March 2017

Report on youth justice facilities at the Grevillea unit of Barwon Prison, Malmsbury and Parkville

February 2017

Investigation into the Registry of Births, Deaths and Marriages' handling of a complaint

January 2017

2016

Investigation into the transparency of local government decision making

December 2016

Ombudsman enquiries: Resolving complaints informally

October 2016

Investigation into the management of complex workers compensation claims and WorkSafe oversight

September 2016

Report on recommendations

June 2016

Investigation into Casey City Council's Special Charge Scheme for Market Lane

June 2016

Investigation into the misuse of council resources

June 2016

Investigation into public transport fare evasion enforcement

May 2016

2015

Reporting and investigation of allegations of abuse in the disability sector: Phase 2 – incident reporting

December 2015

Investigation of a protected disclosure complaint regarding allegations of improper conduct by councillors associated with political donations

November 2015

Investigation into the rehabilitation and reintegration of prisoners in Victoria

September 2015

Conflict of interest by an Executive Officer in the Department of Education and Training

September 2015

Reporting and investigation of allegations of abuse in the disability sector: Phase 1 – the effectiveness of statutory oversight

June 2015

Investigation into allegations of improper conduct by officers of VicRoads

June 2015

Investigation into Department of Health oversight of Mentone Gardens, a Supported Residential Service

April 2015

Councils and complaints – A report on current practice and issues

February 2015

Investigation into an incident of alleged excessive force used by authorised officers

February 2015

2014

Investigation following concerns raised by Community Visitors about a mental health facility

October 2014

Investigation into allegations of improper conduct in the Office of Living Victoria

August 2014

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