

Building Practice Note BP-07: Time limits for building work and lapsed building permits

This Practice Note provides guidance on time limits for building work, extensions to building permits and lapsing of building permits to ensure compliance with the Building Act 1993 (the Act) and the Building Regulations 2018 (the Regulations).

The context below provides guidance on:

- Time limits for building work
- Extension of building permit
- Notice of imminent lapse of building permit
- Lapsed building permits
- Building permit time limits administration procedures

Abbreviations & Definitions

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

- **Act** – Building Act 1993
- **VBA** – Victorian Building Authority
- **BAB** – Building Appeal Board
- **BAMS** – Building Activity Management System
- **RBS** – Relevant Building Surveyor
- **Regulations** – Building Regulations 2018
- **Swimming Pool** - means any excavation or structure (including a spa or a relocatable structure) that is capable of containing water to a depth of greater than 300 mm and that is principally used, or that is designed, manufactured or adapted to be principally used, for swimming, wading, paddling, bathing or similar activities.

Time limits for building work

Section 16 of the Act states that building work must not be carried out unless a building permit has been issued and is in force. The building permit remains in force for a defined period in which the building work must commence and must be completed. This is to ensure that the building work does not remain unfinished and potentially unsafe or unsightly for a prolonged period.

The RBS must ensure the appropriate dates are specified on the building permit (Form 2).

If the building work is not commenced or completed within the time limits, the building permit will lapse pursuant to regulation 55 and will no longer be in force. Any building work carried out after a building permit has lapsed will be in

breach of the Act. However, an extension of time may be granted by the RBS before the permit lapses, or a new building permit may be issued.

Building work required to commence

Regulation 53 provides that all building work must commence within 12 months of a building permit being issued except for the re-erection of a Class 1 or 10 building which must commence within 6 months.

Building work required to be completed

Regulation 54 provides the following time limits for the completion of building work:

- A Class 1 or 10 building must be completed within 24 months after the date of issue of the building permit.
- Re-erection of any building must be completed within 12 months after the date of issue of the building permit.
- Building work not listed above and in relation to Class 2 – 9 buildings other than a re-erection, must be completed within 36 months of the date of issue of the building permit.
- A swimming pool or associated barrier or safety equipment, if that work is being carried out concurrently with other building work on the same allotment, must be completed within the same period as is allowed for the other building work.
- A swimming pool or associated barrier or safety equipment not being carried out concurrently with other building work on the same allotment must be completed within 6 months after the building work commences.

Time limits for a staged building permit

Regulation 54(2) outlines that where building work is to be carried out in more than one stage and more than one building permit is issued, the completion date of any building permit for a subsequent stage is to be based on the date of issue of the building permit for the first stage.

Therefore, the issuing of multiple building permits for one building project does not extend the date by which all the building work must be completed beyond the time limits in regulation 54(1).

For more information about the issuing of building permits for a stage of building work, refer to Practice Note BP-05.

Extension of building permit

Where the applicant for a building permit becomes aware that the commencement or completion dates will not be met, they may apply to the RBS for an extension to these dates under regulation 59. The application must be in writing and made prior to the lapsing of the building permit.

The RBS may extend these dates if they consider the extent of the building work warrants an extension under regulation 59(3). This consideration must occur prior to the lapse of the building permit and if granted, the RBS must notify the applicant without delay of the new dates.

In determining new dates for commencement or completion, the RBS should consider the extent of outstanding building work and the time limits specified in regulations 53 and 54.

If the RBS refuses to grant an extension to the dates, or the new dates granted are not acceptable to the applicant, the owner or their agent may appeal to the BAB under Part 10 of the Act.

Notice of imminent lapse of building permit

Under regulation 56, a notice of imminent lapse of building permit (Form 3) must be sent to the applicant if, 30 days before the date for commencement of the work, the RBS has not carried out an inspection of the work at the first mandatory notification stage. The notice is required if there has been no first inspection, even if the building work has commenced.

Under regulation 57, a notice of imminent lapse of building permit (Form 4) must be sent to the applicant if, 30 days before the date for completion of the work, the RBS has not carried out an inspection of the work relating to the final mandatory notification stage.

Regulation 58 requires that where a notice is issued under regulations 56 or 57, a copy of the notice must also be given to the owner (if the applicant for the permit is not the owner) and the builder named on the building permit within 7 days.

Where a notice is issued and there is no response

If a notice of imminent lapse of building permit is issued by the RBS and the owner does not respond, the RBS should arrange to inspect the building work to ensure the site is safe, particularly if it is being occupied.

If the RBS is concerned about the safety of the site due to incomplete building work, the RBS should consider issuing a building notice or building order for minor work to address the safety concerns.

Lapsed building permits

Building permit has lapsed, building work has not commenced and the owner does not intend to commence the building work

The owner should notify the VBA and relevant council under section 81(2) of the Act that the work has been terminated. Upon receipt of this notification, the appointment of the RBS is taken to be terminated under section 81(3) of the Act.

If the owner later decides to undertake the same building work and intends to engage another building surveyor to be the RBS, the other building surveyor may complete the work only with the written consent of the VBA under section 81(4) of the Act.

Building permit has lapsed, and the building work has not commenced but the owner still intends to carry out the work

The owner must seek a new building permit from the same RBS that issued the lapsed building permit.

If the owner decides to appoint another person to be the RBS, they must apply to the VBA to terminate the appointment of the original RBS pursuant to section 81, or pending agreement, the original RBS may transfer functions to the new RBS under section 80C of the Act.

Pursuant to section 78(2) of the Act, it is an offence for the owner to appoint another person to be the RBS where an RBS has already been appointed for the same building work.

Building permit has lapsed, and the building work is incomplete

The owner must not continue with the building work until a new building permit has been issued by the RBS.

If the owner decides to appoint another person to be the RBS, they must apply to the VBA to terminate the appointment of the original RBS pursuant to section 81, or pending agreement, the original RBS may transfer functions to the new RBS under section 80C of the Act.

If the RBS becomes aware that building work has been carried out after the building permit has lapsed and a new building permit has not been issued, the RBS should immediately issue a building order to stop building work pursuant to section 112 of the Act.

The RBS should also consider whether a building notice should be issued, for example, if the building is a danger to the life, safety or health of persons using the building or land.

Building permit has lapsed, and the building work is complete

It is the responsibility of the builder named in the building permit to notify the RBS of completion of the work without delay. Failure to notify the RBS after the completion of a mandatory notification stage listed in a permit, including completion of the building work, is an offence pursuant to section 33(1) of the Act.

Where all mandatory inspections, other than an inspection on completion of the building work, have been undertaken and the building work is completed prior to the building permit lapsing, an application can be made to the RBS for a certificate of final inspection or occupancy permit without the need to obtain a new building permit.

If the building work is compliant and the RBS has all required documents and certificates, a certificate of final inspection or occupancy permit can be issued.

If the final inspection identifies the building work is non-compliant due to minor outstanding works, the RBS may issue a building order for minor work pursuant to section 113 of the Act. This will allow for work of a minor nature to be carried out without a building permit. Upon completion of this work, an application may be made to the RBS to cancel the building order for minor work. An application for an occupancy permit or certificate of final inspection may also be made, as applicable.

The owner has the right to lodge an appeal with the LAB against any decision made by the RBS, including a decision to issue a building notice or order, or to refuse to issue an occupancy permit or certificate of final inspection.

Building permit time limits administration procedures

A RBS must have administrative systems in place to monitor compliance with the commencement and completion dates specified in the building permit. It is essential for the RBS to comply with their obligations to notify of imminent lapse of building permit.

It is recommended the RBS highlights to owners and builders the important information about time limits for commencement and completion of building work including:

- the importance of ensuring the building work is completed in a timely manner
- the importance of ensuring the building permit process is completed
- the procedure to request an inspection at a mandatory notification stage
- any additional fees arising from the lapse of a building permit, request for extension to dates, additional administration and/or inspections, enforcement, and appeal processes
- the process and documentation required for an application for an occupancy permit or certificate of final inspection.

Regulation 47(3) requires details of commencement, completion and abandonment of building work, and of any lapsed building permits, to be reported by the RBS to the VBA via BAMS within 7 days of the end of each month. For further details refer to the VBA website.

Related Documents

- Building Act 1993
- Building Regulations 2018
- Building Practice Note BP – 28 Building projects with multiple building permits

Version History

- Version 2.0, published 28 June 2021, supersedes Practice Note 35: Time limits for building work and lapsed building permits

Contact Us

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