

PRACTICE NOTE 21-2018

This updates the previous Practice Note.2014-21 issued May 2014

Purpose

The Relevant Building Surveyor (RBS) has the power to issue a building permit, and amend a permit they have issued in case of error, or minor changes in design. The RBS must calculate the impact of the amendments on building cost, to ensure that the correct levy amounts are remitted to the VBA.

When amendments are required

A building permit may have been issued with clerical errors or accidental omissions. Minor design changes may have occurred, for example, relocating, adding or deleting doors or windows. In such cases, the permit may be amended.

Substantial design changes may include an additional storey extension that requires a new building permit.

Power to amend a permit

The provision that allows the RBS to amend or revoke a building permit is section 41A of the *Interpretation of Legislation Act 1984*. This provision applies to power granted under the *Building Act 1993* (the Act) to issue building permits and includes with that power, the power to revoke or amend them. It states—

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

Procedure

The building permit may be amended at the request of the builder or land owner, or otherwise if the RBS considers it necessary. When amending a building permit, the RBS should follow the same process as required for an application for a new building permit.

In accordance with section 30B of the Act, the RBS must lodge a copy of the amended building permit with the relevant council, together with a certified copy of the section 30A approved checklist detailing the documents that accompany (form part of) the amended building permit.

Levy Adjustment

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

Further Information

Want to know more?

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

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