

Building permits and other exemptions BP-02 | Amending a building permit

Audience

The audience/s for this Practice Note include/s:

- | | |
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| <input checked="" type="checkbox"/> Architects/ Designers | <input checked="" type="checkbox"/> Owner Builders |
| <input checked="" type="checkbox"/> Builders | <input type="checkbox"/> Plumbers |
| <input checked="" type="checkbox"/> Building Surveyors/ Inspectors | <input type="checkbox"/> Real estate management agents |
| <input type="checkbox"/> Engineers | <input type="checkbox"/> Trades and Maintenance (inc. Electricians) |
| <input checked="" type="checkbox"/> Home Owners / Residential Tenants | |

Purpose

This Practice Note provides guidance for building surveyors for amending a building permit in compliance with the Building Act 1993 and the Building Regulations 2018.

The content below provides guidance on:

- Power to amend a building permit
- When an amendment to a building permit is appropriate
- Recalculating the cost of the building work when amending a building permit
- Considerations for planning permits
- Protection of adjoining property and the public
- Report and Consent

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, the Building Regulations 2018 or the National Construction Code.

- **Act** – Building Act 1993
- **RBS** – Relevant Building Surveyor
- **Regulations** – Building Regulations 2018

Power to amend a building permit

Section 41A of the Interpretation of Legislation Act 1984 allows the RBS to amend or revoke a building permit. This provision applies to powers granted under the Act to issue building permits and includes the power for the building permits to be revoked or amended. The RBS may amend a building permit in case of an error or minor change in design.



Amendments are made at the request of or on behalf of the owner, or if the RBS considers it necessary. When amending a building permit, the RBS must follow the same process required for an application for a new building permit including Section 30B and Schedule 2 of the Act.

When an amendment to a building permit is appropriate

The RBS should not amend a building permit unless they are satisfied it is more appropriate to amend a building permit than to issue a new one. Some circumstances in which an amendment may be more appropriate include:

- administrative errors;
- minor design changes;
- change of the owner, building practitioner(s) or architect(s);
- change to the natural person for service of directions, notices, and orders;
- determining that protection work is required after the building permit has been issued;
- amending prescribed reporting authorities;
- extending the commencement or completion date of the building permit;
- change of the RBS due to the transfer of functions; or
- change of the designated building surveyor.

Recalculating the cost of the building work when amending a building permit

The Act does not require the RBS to recalculate the cost of the building work when amending a building permit.

However, as per Section 205KA (3) of the Act, if the revised cost of building work exceeds \$15,625, the applicant for the amendment must provide written notice of the revised cost of building work to the VBA within 28 days after becoming aware of the increase in cost.

The RBS must make the applicant aware of their responsibility to notify the VBA when amending the building permit.

Consideration for planning permits

When a building permit amendment is due to a design change, the RBS must consider the validity of the planning permit and the conditions issued for the building work.

Planning permits often contain conditions that require any alterations to the design to be first approved by the relevant council. Before issuing a building permit amendment, the RBS must ensure that changes to the building work do not require approval from the relevant council.

Protection of adjoining property and the public

The RBS must consider if the building permit amendment triggers the requirement of the Act and the Regulations for protection work and protection of the public.

The RBS must consider matters under regulation 112 when determining if protection work is required as a result of a building permit amendment. The RBS must also determine if the amendment requires protection of the safety of the public and if so, what precautions must be taken as per regulation 116. However, in some cases the existing protection measures may still be adequate.



Report and consent

When considering a building permit amendment, the RBS should ascertain the validity of any existing reports and consents issued by the reporting authority and if the proposed amendments may require a new report and consent.

For building work subject to existing report and consents, the RBS needs to be satisfied that reporting authorities do not wish to reconsider their report and consent.

Example

A report and consent has been obtained for fire safety matters under regulation 129 for which a building permit has been issued. Subsequently a building permit amendment application is submitted to the RBS for design changes. The RBS should consider whether the design changes may result in the chief officer being no longer satisfied that a satisfactory degree of fire safety is achieved.

In this instance the RBS should ensure the chief officer has no objections to the proposed design changes before issuing the amended building permit. Where the proposed amendment impacts the fire safety provided by the building, the chief officer may refuse to issue the report and consent under regulation 187.

Related Documentation

- Building Act 1993
- Building Regulations 2018
- Building Practice Note | Building Permits and Other Exemptions BP 11 | Report and Consent
- Building Practice Note | Protection Work PW 02 | Protection Work Process
- Building Practice Note | Protection Work PW 03 | Protection of Public
- Interpretation of Legislation Act 1984

List of Amendments

- Minor grammatical changes
- Update format and content review

Document history

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Contact Us

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

Victorian Building Authority

Goods Shed North
733 Bourke Street
Docklands VIC 3008

www.vba.vic.gov.au

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