

Building and planning permits

Carrying out building work can be an exciting and satisfying process.

However, the building process has some pitfalls for those who are uninformed.

There are many things to consider before starting your building, such as whether your job requires a building permit or a planning permit (or both).

The *Building Act 1993* (the Act) and *Building Regulations 2006* (the Regulations) legislate that all building work is subject to the issuing of a building permit, unless an exemption exists for the proposed work under the Regulations. This includes some minor alterations, demolitions and repair or maintenance work.

A building permit will specify that either an occupancy permit is required or a certificate of final inspection is required on completion of the building work.

If you are unsure please consult your municipal or private building surveyor whether your proposed building work requires a building permit.

In the information that follows, you will learn what permits and other paperwork may be necessary for your building work and the order in which you may require them. Importantly, you will discover that these documents, which are prescribed by Victorian building legislation, are designed to protect you.

Difference between building permits and planning permits

Building permits relate specifically to the carrying out of building construction. However, there are times when a planning permit may also be required.

Planning permits are legal documents giving permission for a land use or development, and may be required by your local council. If a planning permit is required, it must be obtained before a building permit can be issued, however, both applications can be made at the same time.

A planning permit does not remove the need to obtain a building permit.

The best way to find out whether you need a planning permit is to contact your local council's Town Planning Office.

When must building work commence?

The Regulations specify the required commencement and completion dates for building works that are associated with a building permit. If works have not commenced or is not completed within the required time period, or an extension to the building permit has not been sought or approved, then the building permit will lapse.

Type of work	Required commencement date	Required completion date
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Building work relating to houses and outbuildings	Within 12 months of the date of issue of the building permit	Within 24 months of the date of issue of the building permit
Building work relating to swimming pools and associated barriers or fences	Within 12 months of the date of issue of the building permit	Within six months of commencement of the work.
Building work relating to the re-erection of houses and out buildings	Within six months of the date of the issue of the building permit	Completed within 12 months of the date of issue of the building permit
All other building work	Within 12 months of the date of issue of the building permit	Within 36 months of the date of issue of the building permit

Note: A building permit period may be extended, if it is warranted, by application to the building surveyor before the permit lapses.

How do I apply for a building permit?

Before applying for a building permit, you need to choose a building surveyor. You may choose either a municipal building surveyor or a private building surveyor.

Your architect or builder can apply on your behalf for the permit but you must first authorise the architect or builder in writing to make the application.

Do not sign a blank form authorising others to obtain all permits for you and always check that a permit has been issued before any work commences.

Applying for a permit requires you to:

- apply for the building permit through your choice of a municipal or private building surveyor
- pay the appropriate fee, building permit levy and submit at least three copies of drawings, specifications and allotment plans along with the completed application form and other prescribed information.

What is the process?

Once your building permit application has been lodged with a building surveyor, they will check for compliance with the Act and Regulations and can then decide to issue a building permit with or without conditions.

In some instances they may refuse to issue a permit. If a permit is refused, you can either alter the application to comply with the Regulations or appeal the refusal of the permit to the [Building Appeals Board](#).

The building permit issued may be a permit for the whole of the proposed building work or for a stage of the proposed building work. The building surveyor cannot issue the building permit until any required consent of a reporting authority is received. The consent could be in relation to such matters as building over an easement or the siting of a carport.

A building permit cannot be issued until a relevant planning permit (if required) is obtained.

The building surveyor who issues the permit must follow the project through to the end, carrying out building inspections and issuing an occupancy permit or a certificate of final inspection on completion of your building work.

The building surveyor must specify on the building permit the mandatory inspections that will be required throughout the course of the building work. There are no restrictions preventing the building surveyor from varying the required inspections or carrying out additional inspections, if they deem this to be necessary.

If you intend to carry out building work close to an adjoining neighbour's property the building surveyor can, in some cases, require you to perform work to protect your neighbour's property. This may include obtaining the appropriate insurance cover for the building work prior to commencing the protection work. This is generally determined during the building permit application process.

Why obtain a building permit?

A building permit ensures:

- The required building practitioners are registered and carry the required insurance(s)
- Adequate documentation is prepared to enable compliant construction of the proposed building
- An independent review of building documentation occurs
- Key stages of the work are independently inspected
- Your building is independently assessed as suitable for occupation.

Other benefits for owners include compliance with building legislation prior to building work commencing.

Are there exemptions?

The Regulations provide exemptions from the requirement to obtain a building permit for some works that are generally minor in nature.

Examples of exemptions may include pergolas associated with houses, garden sheds with a floor area less than 10m² and repair work done for maintenance purposes, such as replacing rotted weatherboards.

Please note: These exemptions do not relate to town planning or other statutory approvals.

It is suggested that you seek advice from your local council whenever building work is proposed, to confirm whether a building permit or planning permit is required.

On completion of the building work

A **certificate of final inspection** is issued for extensions or alterations to existing homes. The need for a certificate of final inspection will be indicated on your building permit.

Occupancy permits signify that a building surveyor has approved your building work as being suitable for occupation. It is an offence to occupy a new building, including a home or apartment without an occupancy permit.

Lapsed Permits

Under ordinary circumstances, the building work will have commenced and been completed before the expiry of these prescribed time periods.

If for some reason, circumstances prevent the commencement or completion of the building work by the nominated date, you must do one of the following:

1. Before the relevant date passes, seek an extension of the time in which the building work must be commenced and/or completed from the relevant municipal or private building surveyor who

issued the permit. The relevant building surveyor may grant an extension if the extent of the building work warrants it. If the building surveyor refuse to grant an extension of time for the building permit, you may appeal the decision to refuse the extension of time to the [Building Appeals Board](#); or

2. Apply for a determination from the [Building Appeals Board](#) to modify regulation 315(4) of the Regulations to allow the RBS to extend the time limits of the building permit.

If a building permit lapses but building work continues, that work then becomes illegal and the relevant building surveyor should issue a stop works order.

The building work may have been required to be inspected at one of the mandatory inspection stages and where works have continued, it is difficult to determine the building work complies after it has been completed.

If an owner does not comply with the stop work order, then the relevant building surveyor will refer the matter to the VBA for further action.

The building surveyor who originally issues the building permit may refuse to approve the work or may require a part of the building to be exposed to be satisfied that the work is appropriate before issuing an occupancy permit or certificate of final inspection, whichever is required for that work.

In the instance that the building permit has lapsed, all that is required by the relevant building surveyor is certificates (i.e. plumbing), then a new building permit may not be required. The relevant building surveyor may issue the occupancy permit or certificate of final inspection once such certificates have been submitted satisfactorily.

If a building permit lapses and building work is not complete, a new building permit will be required to enable completion of the unfinished building work.

This requires a new application for a building permit.

The relevant municipal or private building surveyor will require plans that show the work to be completed and payment of fees and levies relative to that work will need to be paid. The application must be made to the same building surveyor who issued the original building permit unless an approved termination of his or her appointment has been obtained from the VBA.

Note: Additional fees may be incurred in relation to lapsed building permits. This is a matter to be discussed between the owner and the building surveyor.

Building Permit Levy

The *Building Act 1993* imposes a [Building Permit Levy](#). The Levy is paid by an applicant for a building permit and must be paid before the permit can be issued. The levy is collected by the building surveyor and forwarded to the Victorian Building Authority by monthly return.

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