

FACT SHEET: Information for Homeowners/Applicants

Building permits

A building permit is issued by a Relevant Building Surveyor (RBS) when the RBS is satisfied that the building work will comply with the *Building Act 1993* (the Act) and *Building Regulations 2018* (the Regulations).

The Act and Regulations require that all building work is subject to the issuing of a building permit, unless an exemption exists for the proposed work. These exemptions include some minor alterations, demolitions, and repair or maintenance work. A building permit will specify whether an occupancy permit or certificate of final inspection is necessary on completion of the building work.

Undertaking building work without obtaining the necessary building permit is a serious offence and can result in severe penalties. The Act prescribes a penalty of 500 penalty units for anyone carrying out building work without a permit equating to an amount more than \$70,000. Imprisonment can also apply where a person 'in the business of building' carries out illegal work.

Obtaining a building permit

The Act and Regulations provide benefits to consumers. Obtaining a building permit ensures:

- The required building practitioners are registered and carry the required insurance(s) where required;
- 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; and
- Your building is independently assessed as suitable for occupation.

Other benefits for owners include ensuring building work is designed to be compliant with building legislation prior to building work commencing.

Application 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 (i.e. your local council) or a private building surveyor. Once the building surveyor has been chosen, they become the RBS. 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. The appointment of a private building surveyor must be made by the owner or an agent of the owner other than the builder.

Further information on appointing a building surveyor can be found at:

<https://www.vba.vic.gov.au/consumers/appointing-a-building-surveyor>.

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

The process to apply for a building permit:

1. Appoint either a municipal or private building surveyor as your RBS.
2. Complete an application form for the building permit through your chosen a municipal or private building surveyor.
3. Submit at least three copies of drawings, specifications and allotment plans along with the completed application form and other prescribed information.
4. Your RBS will submit required information to the VBA through an online application process. It is essential that all information requested by the RBS is submitted in a timely manner, so it does not cause unnecessary delays with your building permit.
5. The Building Permit Levy (Levy) must be paid up front.
6. A **Building Permit Number (BPN)** will be issued to the RBS, and they can then issue you with a Building Permit.

Please note: all building permits must have a 13-digit VBA BPN on them.

Assessment of a building permit application

Once your building permit application has been lodged with an RBS, they will check that the plans submitted comply with the Act and Regulations and can apply to the VBA for a BPN. It is at this stage where you or your representative is required to pay the building permit levy. Once a BPN issued the RBS will 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 RBS cannot issue the building permit until:

- any required consent of a reporting authority is received (e.g. a consent in relation to such matters as building over an easement or the siting of a carport or a relevant planning permit (if required) is obtained)
- the building permit levy has been paid; and the
- a BPN has been issued by the VBA.

The RBS 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 RBS 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 RBS 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 RBS 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. Protection work cannot commence until the adjoining owner has agreed to the proposed protection work.

Estimation of cost of building work and calculation of levy

The Act requires payment of a Building Permit Levy (Levy) based on the cost of building work for which a building permit is required. The Levy must be paid upfront before the BPN and building permit can be issued. The Levy is only payable if the cost of building work is greater than \$10,000.

It is the responsibility of the applicant for a building permit (including a person acting as an agent for the owner) to provide enough information to establish the cost of the building work.

The cost of the building work is determined most commonly through the established contract price for the building work (including the cost of labour and materials). Where a contract is in place, the applicant is required to specify the contract price, including the cost of labour and materials. The best practice is for the RBS to request a copy of the contract or a copy of an extract that identifies the cost of building work. If a contract is not in place, the cost of the building work needs to be estimated. The applicant must provide enough information to enable the RBS to estimate the cost of the building work (including itemising the cost of labour and materials necessary to build in accordance with approved plans and specifications of the building permit, as well as the method of estimation used). Documentary evidence may be requested by the building surveyor.

Note: The Goods and Services Tax (GST) on the cost of building materials and the cost of labour must be included when determining the cost of building work for the purpose of calculating the Levy.

How do I make payment for the building permit levy?

Under new section 205GA of the Act, the applicant for a building permit, or a person acting on behalf of the applicant, must pay to the VBA the Levy before the building permit is issued. The person paying the Levy to the VBA could be the applicant, the RBS or any other person that has been nominated to pay the Levy by the applicant. If the RBS is paying on your behalf, they will collect the levy from you as part of their fees.

Where the applicant or person paying on behalf of the applicant is paying the Levy directly to the VBA, they will be issued with an invoice via the email address that they have supplied to the building surveyor. You will have the option to pay via BPAY or credit/debit card.

When you receive the invoice via email, you will be directed to click on a link to take you to the secure payment portal where you can either enter in your credit card details or will be given the BPAY biller code and reference number to make payment via your online banking portal.

- If paying by credit card, the BPN will be issued to the building surveyor immediately upon payment being complete.
- If payment is made by BPAY, please supply your building surveyor with the BPAY receipt number so that they can update the building permit number application. Where a receipt number is provided, the building permit number will be issued to the building surveyor immediately. If the receipt number is not provided, the BPN will be issued within normal banking reconciliation timeframes (approximately 1-2 business days).

You will also receive notification that the Building Permit Number has been issued. **The issuance of a Building Permit Number by the VBA does not mean your RBS has issued a building permit.** Your building surveyor will determine your application for a building permit and advise you of the outcome. Where a building permit is issued by your RBS, the BPN will be allocated to that building permit.

On completion of the building work under a building permit, you are responsible for notifying the VBA of the final cost of that building work, if the final cost has increased from the estimated cost of works that appears on your building permit.

Important: New obligations from 1 July 2019 to notify the VBA of final cost of works

Key changes

Important changes are being introduced to Victoria's building permit and levy system from 1 July 2019. The Act and the Regulations will be amended on 1 July 2019 to give effect to these changes.

For work carried out under a building permit that is issued on or after 1 July 2019;

- the owner or applicant for a building permit has a new duty to notify the VBA of revised final costs of work, if the revised final cost exceeds RBS's initial estimate under section 205I by at least \$15,625
- the VBA must be notified **within 28 days** of the owner or applicant for a building permit becoming aware of the final cost of work.
- the VBA will have new powers to re-assess a Levy after issuance of a building permit and request payment of additional levy if the final cost of works has increased by at least \$15,625 from the estimated cost of works noted on a building permit.
- the VBA has five years to re-assess levy from the latest date of one of the following;
 - occupancy permit is issued
 - certificate of final inspection is issued
 - building work is practically completed

Obligation to notify the VBA of final cost of building work from 1 July 2019 (s.205ka)

Once a building permit is issued, the owner or applicant for a building permit should monitor the cost of work and maintain records of the cost of work. This is because variations to the building work during the life of the permit are likely to result in the cost of work increasing or decreasing from the amount initially estimated. These variations may require amendments to the building permit (for example, changing the position of a window) or they may not (for example an upgrade to fittings and finishes). This also is often calculated by the owner for the purposes of finance or insurance.

At the completion of the building work authorised by the building permit, the owner or applicant for a building permit must calculate the revised final cost of building work, and if the final cost is at least \$15,625 higher than the initial estimate, the VBA must be notified of the revised final cost of work **within 28 days**. This is required under new section 205KA of the Act.

Notifying the VBA of final cost of building works

The VBA will issue a reminder to owners/applicants after the end of the life of the permit that notification of revised final cost of work is due, including a copy of the amended permit that may have resulted in an increase to cost of the building work.

If the variation to the building work **is not related to an amendment** of the building permit, the **owner** of the building or land must give written notice to the VBA of the revised final cost of the building work **within 28 days** after the owner becomes aware of the increase in cost.

If the variation to the building work **is related to an amendment** of the building permit, the **applicant** for the amendment to the building permit must give written notice to the VBA of the revised final cost of the building work **within 28 days** after the applicant becomes aware of the increase in cost.

Re-assessment of levy

Where the VBA is advised of a difference between the building surveyor's initial estimate of cost of work and revised final cost of work, the VBA will determine whether to re-assess the Levy paid in relation to the building permit. The VBA may also choose to re-assess Levy before that time if the VBA has information that indicates a re-assessment is required.

Where there is a difference between the initial estimate and the revised final cost of work, the VBA will calculate the difference between the amount of Levy already paid, and the additional Levy to be paid, and will send an invoice to the owner or applicant to make payment **within 14 days**.

Additional penalty levy for failure or delay in notifying

A person who fails to notify the VBA of the revised final cost of work, or is late to notify the VBA, may be liable to pay re-assessed levy plus penalty levy of up to twice the re-assessed levy amount. (The re-assessed levy amount is the difference between the amount of levy due in respect of the revised final cost of work, and the amount of levy already paid).

The VBA may also impose penalty levy of up to twice the re-assessed levy amount if levy is re-assessed as a result of wrong or misleading information supplied by the applicant for a building permit at building permit application stage.

More information

Visit the [BAMS VBA website](#)

Contact the BPN Industry Support Line on 1300 241 104 or email BAMS@vba.vic.gov.au.

A copy of the *Building Act 1993* can be found on the [VBA website](#).