

How to complete the Application to Amend a Planning Permit form

The information needed on the *Application to Amend a Planning Permit* form is required under Section 72 of the *Planning and Environment Act 1987* and regulation 16 of the *Planning and Environment Regulations 2005*.

This form cannot be used to amend a permit issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT). Instead an application will need to be made under section 87 of the Act. A permit issued by the Minister under Division 6 cannot be amended using the form. This can be considered as an application for an amendment to the Minister under Division 6 of the Act (section 97I)

Obtaining a copy of the Application to Amend a Planning Permit form

You can obtain a paper copy from your local council, or access an electronic copy of the form from www.dse.vic.gov.au/planning or your local council website.

i Access to the electronic files on these websites requires installation of the free Adobe Acrobat Reader software. A link to download the software is available on the website.

Filling in the application form

You can fill in the application form a number of ways:

By hand: Complete the form in pen. Please print clearly.

Electronically: You can complete the form electronically by clicking on or typing into the response fields on the form. You can use the tab key to move between response fields.

i You can complete the form electronically and print it but you cannot save the form with the information you enter if you open the form with the free Adobe Acrobat Reader software.

To save the information that you enter into the form response fields, please open the form with, and complete the form using Adobe Acrobat 6.0 Professional or Adobe Acrobat 6.0 Standard, or later versions, instead of Adobe Acrobat Reader.

Need help with the application?

How do you work out whether an amendment to a planning permit is appropriate and what information to provide?

i There are different ways to work out whether you need an amendment to a planning permit before you fill out the form. Council's planners can explain to you if an amendment to a permit is appropriate.

Initial enquiries: telephone or visit the council to discuss your proposal. Initial enquiries are generally informal and unrecorded.

Pre-application meeting: by arranging a formal pre-application meeting with a council planning officer, you can obtain advice on whether an amendment to a permit is appropriate, matters to consider and information to be submitted with the application.

Checklists: most councils have checklists identifying information required to be submitted with specific applications that may be relevant to an amendment to permit, e.g. multi-dwelling development, advertising signage, removal of native vegetation.

Council contacts are given at the end of the application form.

- ① Has there been a pre-application meeting with a council officer?

If you have attended a pre-application meeting with a council planner, fill in the name of the planner and the date, so that the person can be consulted about the application once it has been lodged.

① Has there been a pre-application meeting with a council officer? Yes No

If yes, with whom?: Date:

The land

- ② Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Planning permits relate to the use and development of the land. It is important that accurate, clear and concise details of the land are provided with the application.

How is land identified?

Land is commonly identified by a street address, but sometimes this alone does not provide an accurate identification of the relevant parcel of land relating to an application. Make sure you also provide the formal land description - the lot and plan number or the crown, section and parish details (as applicable) for the subject site. This information is shown on the title.

② Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address

Street No.: Street Name:

Suburb/Locality: Postcode:

Formal Land Description

▲ This information can be found on the certificate of title.

Lot No.: on Lodged Plan, Title Plan or Subdivision Plan No.:

OR

Crown Allotment No.: Section No.: Parish Name:

- ③ Title information.

Why is title information required?

Title information confirms the location and dimensions of the land specified in the planning application and any obligations affecting what can be done on or with the land.

As well as describing the land, a full copy of the title will include a diagram or plan of the land and will identify any encumbrances, caveats and notices. (See part 8 of this guide for information about encumbrances, caveats and notices).

What title information is required?

The title information accompanying your application must include a 'register search statement' and the title diagram, which together make up the title. In addition, any relevant associated title documents, known as 'instruments', (eg. restrictive covenants), must also be provided. (See Part 8 of this guide for more information about the types of instruments that are required with your application).

Some titles have not yet been converted by Land Registry into an electronic register search statement format. In these earlier types of titles, the diagram and encumbrances are often detailed on the actual title, rather than in separate plans or instruments.

③ Title information. Attach a full, current copy of title information for each individual parcel of land, forming the subject site.

Why is 'current' title information required?

It is important that you attach a current copy of the title for each individual parcel of land forming the subject site. 'Current' title information accurately provides all relevant and up-to-date information.

Some councils require that title information must have been searched within a specified time frame. Contact the council for advice on their requirements.

Copies of title documents can be obtained from Land Registry: Level 10, 570 Bourke Street, Melbourne; 03 8636 2010; www.land.vic.gov.au - go direct to "titles & property certificates".

- ④ Describe how the land is used or developed now.

How should land be described?

You need to describe, in general terms, the way the land is used now, including the activities, buildings, structures and works that exist (e.g. single dwelling, 24 dwellings in a three-storey building, medical centre with three practitioners and 8 car parking spaces, vacant land).

④ Describe how the land is used and developed now.

eg. single dwelling, three dwellings, shop, factory, medical centre with two practitioners, licensed restaurant with 80 seats.

5 Plan of the land.

Please attach to your application a plan of the existing conditions of the land. Check with the local council for the quantity, scale and level of detail required.

It is also helpful to include photographs of the existing conditions.

5 Plan of the land.

Attach a plan of the existing conditions. Photos are also helpful.

The amendment proposal

6 You must give full details of the permit being amended and the amendment being applied for.

a. What permit is being amended?

Include permit number and what the permit allows.

You must clearly identify the permit being amended. You must include the permit number and what the permit allows. These are found at the beginning of the permit. A copy of the permit, plans and other documents where relevant should be provided where these are available.

6 a. What permit is being amended?

Include the permit number and what the permit allows.

Permit no 2004/29. This permit allows the use and development of the land for a bed and breakfast premises.

b. What is the amendment being applied for?

Describe the changes proposed to the permit including any changes to the plans or to any other documents included in the permit.

You must clearly set out all the changes to the permit being applied for. These may include:

- an amendment to the use and/or development allowed by the permit.
- an amendment to any conditions of the permit.
- an amendment to any plans, drawings or other document approved by the permit.

b. What is the amendment being applied for?

Describe the changes proposed to the permit including any changes to the plans or to any other documents included in the permit.

Detail any changes sought to what the permit allows.

To amend the permit to allow "tea rooms" in addition to "Use and development of the land for a bed and breakfast premises".

Detail any changes sought to the current conditions of the permit.

Amend Condition 2 to allow a maximum of 8 instead of 6 patrons.

Detail any changes sought to the plans or to any other documents endorsed under the permit.

The endorsed plan referenced in Condition 1 to be amended from "plan No G104 dated 10 May 2004" to "plan No G105" with new date

c. Why is the amendment required?

State reasons for the change.

To assist the council in processing the application, background information as to why the amendment is being sought should be provided.

c. Why is the amendment required?

State the reasons for the change.

Because there is a customer demand for a small tea rooms and the ability to allow up to 8 patrons. This expansion can occur easily within the existing building with a minor extension of car parking as shown on the new plan G105.

7 Additional information about the proposal.

What additional information should you provide to support the proposal?

You should provide sufficient supporting material with the application to describe the proposal in enough detail for the council to make a decision. It is important that copies of all plans and information submitted with the application are legible.

7 Additional information about the proposal.

Contact council or refer to council planning permit checklists for more information about council's requirements.

Attach additional information providing details of the proposal, including:

Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.

Plans showing the layout and details of the proposal.

If required, a description of the likely effect of the proposal (eg. traffic, noise, environmental impacts).

For applications with extensive supporting information, it may be useful to include a list of information accompanying the application. This list will provide you with a useful record if, at any stage, you substitute later versions of these documents.

The example below illustrates a suitable list.

Documents attached to support this planning permit application include:

Quantity	Document name	Document ref.	Document date
1	Title		9/12/2004
1	Plan of existing conditions	TPA01.1	15/8/2005
3	Ground Floor plan	TPA03	15/8/2005
3	Elevations	TPA05	15/8/2005

8 Encumbrances on title.

What is an encumbrance?

An 'encumbrance' is a formal obligation on the land, with the most common type being a 'mortgage'. Other common examples of encumbrances include:

- **Restrictive Covenants:** A 'restrictive covenant' is a written agreement between owners of land restricting the use or development of the land for the benefit of others, (eg. a limit of one dwelling or limits on types of building materials to be used).
- **Section 173 Agreements:** A 'section 173 agreement' is a contract between an owner of the land and the council which sets out limitations on the use or development of the land.
- **Easements:** An 'easement' gives rights to other parties to use the land or provide for services or access on, under or above the surface of the land.
- **Building Envelopes:** A 'building envelope' defines the development boundaries for the land.

Aside from mortgages, the above encumbrances can potentially limit or even prevent certain types of proposals.

What documents should I check to find encumbrances?

Encumbrances are identified on the title (register search statement) under the header 'encumbrances, caveats and notices'. The actual details of an encumbrance are usually provided in a separate document (instrument) associated with the title. Sometimes encumbrances are also marked on the title diagram or plan, such as easements or building envelopes.

What about caveats and notices?

A 'caveat' is a record of a claim from a party to an interest in the land. Caveats are not normally relevant to planning applications as they typically relate to a purchaser, mortgagee or chargee claim, but can sometimes include claims to a covenant or easement on the land. These types of caveats may affect your proposal.

Other less common types of obligations may also be specified on title in the form of 'notices'. These may have an effect on your proposal, such as a notice that the building on the land is listed on the Heritage Register.

What information should I provide with my application regarding encumbrances, caveats and notices?

Part 3 of the application form requires you to attach a copy of the title. Check the title to see if any of the types of encumbrances mentioned above are listed. If so, you must submit a copy of the document (instrument) describing that encumbrance. Mortgages do not need to be provided with planning applications.

<p>8 Encumbrances on title.</p> <p>Encumbrances are identified on the certificate of title.</p>	<p>Is the land affected by an encumbrance such as a restrictive covenant, section 173 agreement or other obligation on title such as an easement or building envelope?</p> <p><input type="checkbox"/> No, go to 9.</p> <p><input checked="" type="checkbox"/> Yes, <input checked="" type="checkbox"/> Attach a copy of the document (instrument) specifying the details of the encumbrance.</p> <p><input type="checkbox"/> Does the proposal breach, in any way, the encumbrance on title?</p> <p><input checked="" type="checkbox"/> No, go to 9.</p> <p><input type="checkbox"/> Yes, contact council for advice on how to proceed before continuing with this application.</p>	<p>▲ Note</p> <p>Council must not grant an amendment to permit that authorises anything that would result in a breach of a registered restrictive covenant (sections 61(4) and 62 of the <i>Planning and Environment Act 1987</i>).</p> <p>Contact council and/or an appropriately qualified person for advice.</p>
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What happens if the proposal contravenes an encumbrance on title?

Encumbrances may affect or limit your proposal or prevent it from proceeding. Section 61(4) of the *Planning and Environment Act 1987* for example, prevents a council from granting an amendment to a permit if it would result in a breach of a registered restrictive covenant. If the proposal contravenes any encumbrance, contact the council for advice on how to proceed.

You may be able to modify your proposal to respond to the issue. If not, separate procedures exist to change or remove the various types of encumbrances from the title. The procedures are generally quite involved and if the encumbrance relates to more than the subject property, the process will include notice to the affected party.

i You should seek advice from an appropriately qualified person, such as a solicitor, if you need to interpret the effect of an encumbrance or if you seek to amend or remove an encumbrance.

Cost of buildings and works/permit fee

9 If the permit allows development, state the estimated cost difference between the development allowed by the permit and the development to be allowed by the permit as amended.

In most instances an application fee will be required. This fee must be paid when you lodge the application. The fee is set down by government regulations.

To help council calculate the application fee, you must provide an accurate cost estimate of the difference between the development allowed by the permit and the proposed development to be allowed by the amended permit.

Council may ask you to justify your cost estimates. Costs are required solely to allow council to calculate the application fee.

Fees are exempt from GST.

The cost difference is calculated as follows:

Development cost related to the Application to Amend a Planning Permit	—	Development cost related to the Application for Planning Permit	=	Cost Difference (enter this amount in Q9 on the <i>Application to Amend a Planning Permit form</i>)
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Example 1

Where the cost of the development to be allowed by the amended permit is lower than the cost of the development allowed by the permit:

\$180,000 - \$195,000 = -\$15,000

Example 2

Where the cost of the development to be allowed by the amended permit is higher than the cost of the development allowed by the permit:

\$250,000 - \$195,000 = \$55,000

i Costs for different types of development can be obtained from specialist publications such as Cordell Housing: Building Cost Guide or Rawlinsons: Australian Construction Handbook.

9 If the permit allows development, state the estimated cost difference between the development allowed by the permit and the development to be allowed by the amended permit.

Cost \$

▲ You may be required to verify this estimate.

Note: If the estimated cost of the development to be allowed by the amended permit is less than the estimated cost of the development allowed by the permit, show it as a negative number (see *How to complete the Application to Amend a Planning Permit form* for examples).

i Contact the council to determine the appropriate fee. Go to www.dse.vic.gov.au/planning to view a summary of fees in the Planning and Environment (Fees) Regulations 2000.

10 Do you require a receipt for the amendment to permit fee?

Indicate if you require a receipt, because they are often not issued unless requested.

10 Do you require a receipt for the amendment to permit fee?

Yes No

Contact, applicant and owner details

- 11 Provide details of the contact, applicant and owner of the land.

This section provides information about the applicant, the owner of the land and the person who should be contacted about any matters concerning the application.

The contact: in order to avoid any confusion, the council will communicate only with this person, who is also responsible for providing further details. The contact may be a professional adviser (e.g. architect or planner) engaged to prepare or manage the application. To ensure prompt communications, contact details and the preferred method of communication should be given.

Example response to 11: Contact

Contact The person you want Council to communicate with about the application.	Name: <i>Andrew Hoage</i>
	Organisation (if applicable): <i>Town Planning Consultants</i>
	Postal address: <i>PO BOX 111</i>
	<i>Parkdale</i> Postcode: <i>3 1 9 4</i>
	Contact phone: <i>9123 4567</i> <input type="checkbox"/>
	Mobile phone: <i>0412 345 678</i> <input checked="" type="checkbox"/>
	Email: <i>tpcpl@bigpond.net.au</i> <input type="checkbox"/>
	Fax: <i>9123 4567</i> <input type="checkbox"/>

Indicate preferred contact method

The applicant is the person or organisation that wants the amended permit. The applicant can, but need not, be the contact person.

Example response to 11: Applicant

Applicant The person or organisation who wants the amendment to permit.	<input type="checkbox"/> Same as contact. If not, complete details below.
	Name: <i>Len Browning</i>
	Organisation (if applicable): <i>Responsible Developers P/L</i>
	Postal address: <i>12A Ardour Lane</i>
	<i>Wycheproof</i> Postcode: <i>3 5 2 7</i>

The owner of the land is the person or organisation who owns the land at the time the application is made. Where a parcel of land has been sold and an application made prior to settlement, the owner's details should be identified as those of the vendor. The owner can, but need not, be the contact or the applicant.

Example response to Question 11: Owner

Owner The person or organisation who owns the land.	<input type="checkbox"/> Same as contact <input checked="" type="checkbox"/> Same as applicant
	Where the owner is different from the applicant or contact, provide the name of the person or organisation who owns the land.
	Name (if applicable):
	Organisation (if applicable):
	Postal address:
	Postcode: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

Checklist

12 Have you checked your application?

The checklist is to help ensure that you have:

- provided all the required information on the form
- included payment of the application fee
- attached all necessary supporting information and documents
- completed the relevant council checklist
- signed the declaration on the last page of the application form

i The more complete the information you provide with your application, the sooner council will be able to make a decision.

12 Have you?	<input checked="" type="checkbox"/> Filled in the form completely?
	<input checked="" type="checkbox"/> Paid or included the application fee?
	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Attached all necessary supporting information and documents?
	<input checked="" type="checkbox"/> Completed the relevant council checklist?
	<input checked="" type="checkbox"/> Signed the declaration below?

Declaration

13 This form must be signed. Complete one of A, B or C

The declaration should be signed by the person who takes responsibility for the accuracy of all the information that is provided. This declaration is a signed statement that the information included with the application is true and correct at the time of lodgement.

The declaration can be signed by the applicant or owner. If the owner is not the applicant, the owner must either sign the application (Option B) or must be notified of the application and this must be acknowledged in the declaration (Option C).

<p>13 This form must be signed. Complete one of A, B or C</p> <p>▲ Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit.</p>	<p>A Owner/Applicant</p> <p>I declare that I am the applicant and owner of the land and all the information in this application is true and correct.</p> <p>Signature: <i>Len Browning</i></p> <p>Date: 19 / 08 / 2005</p>
	<p>B Owner</p> <p>I declare that I am the owner of the land and I have seen this application.</p> <p>Signature: _____</p> <p>Date: DD / MM / YYYY</p>
	<p>Applicant</p> <p>I declare that I am the applicant and all of the information in this application is true and correct.</p> <p>Signature: _____</p> <p>Date: DD / MM / YYYY</p>
	<p>C Applicant</p> <p>I declare that I am the applicant and:</p> <ul style="list-style-type: none"> • I have notified the owner about this application; • and all the information in this application is true and correct. <p>Signature: _____</p> <p>Date: DD / MM / YYYY</p>

i Obtaining or attempting to obtain an amendment to permit by wilfully making or causing any false representation or declaration, either orally or in writing, is an offence under the *Planning and Environment Act 1987* and could result in a fine and / or cancellation of the amendment to permit.

Lodgement

Lodge the completed and signed form and all documents with:

The application must be lodged with the council responsible for the planning scheme in which the land affected by the application is located.

Contact details are listed in the lodgement section on the last page of the form.

i **Approval from other authorities:** In addition to obtaining a planning permit, approvals or exemptions may be required from other authorities or council departments. Depending on the nature of your proposal, these may include food or health registrations, building permits or approvals from water and other service authorities.