

Can I use my shed as a permanent dwelling?

Buildings such as sheds are not normally approved for use as homes or dwellings as they may not have been constructed to comply with the requirements of the Regulations for a residential dwelling. Following the 2009 bushfires, certain concessions for temporary accommodation in buildings on bushfire affected properties were introduced to the planning scheme. These concessions will expire on 31 March 2012 by which time all buildings must comply.

If you are considering building a shed with a view to later using it as a dwelling it is important that you seek professional advice before you build, as it may not be the best or most cost efficient option for you. The first choice should be to construct a new dwelling that fully complies with the Building Regulations 2006 (the Regulations).

The following information on sheds (Class 10a building) and dwellings (Class 1a building) may assist you in considering your options carefully.

What are the building permit requirements?

A building permit is required for most building work including the following buildings:

- Construction of a shed (Class 10a building) greater than 10 m² in area;
- Construction of a dwelling (Class 1a);
- To change the use of an existing building from a shed (Class 10a) to a dwelling (Class 1a).

A shed used temporarily as a dwelling is not exempt from the requirement to obtain a building permit for its construction. You should consult your local council for further advice on building permit requirements.

Are there exemptions for people rebuilding following the 2009 bushfires?

People rebuilding following the 2009 bushfires may be exempt from the requirements to obtain a planning permit until 31 March 2011 to complete the construction of the building for temporary accommodation or a new dwelling because of amendments to the Victorian Planning Provisions.

The use of a building for temporary accommodation will need to cease by 31 March 2012 unless the building is brought into compliance with the planning and building legislation requirements for a dwelling.

Can I retain a building used as temporary accommodation on my site permanently?

It will depend on the type of temporary building, whether you had a building permit for its original construction and what your planned use of the building is as to whether you can retain it permanently. You may need to obtain a building and planning permit for a change of use or works to bring it up to a suitable level of safety or amenity.

To assist you in determining whether you may be able to retain your building permanently, a number of different scenarios are provided below. Further advice can be obtained from the building and planning departments of your local council.

Planning and building legislation contain provisions relating to sheds on properties where they are not associated with a dwelling. Where a shed is proposed to remain on an

allotment and a dwelling destroyed by the bushfires has not been re-built the local council may have additional controls and requirements that need to be addressed. Further advice on this can be obtained from the planning and building departments of your local council.

Building legislation issues that will affect your change of use application

A key point to note is that a building permit and occupancy permit cannot legally be issued after the building has been constructed (except where additional new work is proposed).

Where a change of use is proposed, Regulation 1011 of the Regulations allows a municipal building surveyor (MBS) or a private building surveyor to issue a building permit and an occupancy permit to allow the change of use of a building to occur.

The Regulation states *“A person must not change the use of a building or place of public entertainment unless the building or place of public entertainment complies with the requirements of these Regulations applicable to the new use”*.

There is some discretion given to the building surveyor to allow partial compliance with the Regulations applicable to the new use, however they must take into account structural adequacy of the building, health and amenity and fire safety requirements when assessing your request to change the use of the building.

As many of these buildings will be in bush settings a major issue for consideration in determining if a change of use to a dwelling is feasible will be the construction requirements for buildings in bushfire prone areas.

The following scenarios may help you understand the factors that may allow or prevent you from retaining your temporary accommodation or shed.

Scenario 1

You obtained a building permit to build a shed and would like to retain it as a shed

- This is acceptable;
- You should ensure that a Certificate of Final Inspection has been issued for the shed; If you have used your shed as temporary accommodation following the 2009 bushfires and installed facilities such as a kitchen, toilet, bathroom and laundry, you will need to remove these by the 31 March 2012 when the occupation of the shed as temporary accommodation will no longer be allowed.

Scenario 2

You did not obtain a building permit to build the shed and would now like to retain it as a shed

- Building Surveyors cannot legally issue a building permit and certificate of final inspection after the building has been constructed.
- MBS from the local council could issue a Building Notice (show cause) and possibly follow up with a Building Order to carry out building work, and if satisfied, could allow the structure to remain, however the structure will not be issued with a building permit.
- If the MBS doesn't allow the structure to remain the owner would either remove it or appeal the Building Order to the Building Appeals Board (BAB), however the BAB would need to be satisfied that the building was safe to remain as a shed.

Scenario 3

You obtained a building permit for a shed and would like to change its use to a dwelling

- An owner may apply for a change of use permit however the building surveyor would need to be satisfied that relevant requirements applicable to a dwelling (Class 1a building) have been met.
- The change of use may mean you also need to obtain a planning permit from the local council.
- The building surveyor would also require plans drawn up by a draftsman, to show as constructed details and proposed building work still to be carried out. The building surveyor will be concerned about non-compliance and defects, especially with the safety of current and future owners and would need to be satisfied that the building was safe to be occupied as a dwelling.
- It can sometimes be very costly to change the use of a building as you may need to replace concrete slabs, footings and other building requirements (see other considerations below). You may also need to consider the requirements in the building standard for construction in bushfire prone areas.¹
- The building will need to be assessed for energy efficiency and the installation of insulation and other energy efficiency measures may be required.
- A building permit will be required for the works to convert the shed to a dwelling and an occupancy permit issued upon completion.

Scenario 4

You do not have a building permit for a shed and would like to retain it as a dwelling

- It may be more difficult to justify retention of the shed as a permanent dwelling because the construction details may not be known.
- Building surveyors cannot legally issue a building permit (or an occupancy permit) for a dwelling after the building has been constructed without approval.
- The Municipal building surveyor (MBS) could issue a Building Notice (show cause) and possibly follow up with a Building Order to carry out building work, and if satisfied could allow a structure to remain; however the owners will not have a building permit or occupancy permit.
- The MBS will be concerned about non-compliance and defects, especially with the safety of current and future owners.
- Building owners may appeal the Building Notice or Building Order to the Building Appeals Board (BAB), however the BAB would need to be satisfied that the building was safe to remain as a dwelling.

Other considerations

Seeking to change the use of a shed to a dwelling is not simple. There are many considerations and it is recommended that you seek professional financial, building and regulatory advice before you make your decision.

Some other considerations include:

- Is it feasible and cost effective to upgrade the temporary building to a standard that it can be used as a dwelling (Class 1a building)? The first choice should be to construct a new dwelling that fully complies with the Building Regulations 2006.

¹ Australian Standard, AS3959-2009 Construction of buildings in bushfire-prone areas.

- To successfully change the use of your temporary building to a dwelling you will need to ensure that the structure meets the requirements of the Regulations and the Building Code of Australia. This will include the preparation of suitable plans of the building and a site plan, and the provision of a number of reports such as a BAL assessment, energy rating, geotechnical (soil) report and structural engineering design where required. Key construction elements that you will need to consider include:
 - Bushfire construction requirements for the site;
 - Energy efficiency requirements;
 - Structural construction requirements for footings/slab on ground (soil test required), wall and roof framing; Slabs for dwellings have different requirements to those used for sheds. If the shed slab does not meet the requirements for a dwelling then it is not feasible to consider a change of use.
 - Damp proofing under concrete floors;
 - Termite protection where required;
 - Minimum ceiling heights (2.4 m for habitable rooms and 2.1 m for laundry, bathroom, corridor and toilet);
 - Minimum window sizes (including openable portions for ventilation);
 - Required facilities for cooking, laundry, bathroom, toilet and damp proofing of floors and walls;
 - Certificates of compliance for electrical, plumbing and glazing;
 - Septic Tank system (where required);
 - Complying steps, landings, balustrades (where required) and
 - Hard wired smoke alarms.