

RESPONDING TO A BUILDING ORDER RECEIVED FROM COUNCIL

BUILDING INFORMATION SHEET (2022)



What is a Building Order

A Building Order is a legally regulated document issued under the *Building Act 1993*. It is a direction to ensure works comply with the *Building Act 1993* (the Act) and *Building Regulations 2018* (the Regulations). If you get a Building Order from Council's Municipal Building Surveyor (MBS), works on your property are considered to be in breach of the Act and Regulations.

Building Orders come in several different versions:

- **Building Order - General**

A general Building Order is issued after the show cause period stated in the previously issued Building Notice has expired and the MBS has determined that the issues stated in the Building Notice are still valid and have not been resolved or addressed. A Building Order requires you to do the things previously outlined in the Building Notice.

A 'Building Order – General' is issued under Section 111 of the Act.

- **Building Order - Minor Works**

A Building Order for minor works is issued where the work ordered to be carried out is of a minor nature.

A 'Building Order - Minor Works' is issued under Section 113 of the Act.

- **Stop Works Order**

Stop Works Orders are issued where there is a contravention of the Act or the Regulations, or for a safety issue. The MBS requires the owner and builder to stop work to either prevent further contravention, or to stop work that is considered to be unsafe.

A 'Stop Works Order' is issued under Section 112 of the Act.

- **Emergency Order**

An Emergency Order is issued where a building or land poses an immediate danger to the occupiers of the building or land and any other persons or property.

An 'Emergency Order' are issued under Section 102 of the Act.

Failure to Comply with a Building Order

A Building Order is an escalation the enforcement process. You must comply with a Building Order unless you have made an appeal application to the Building Appeals Board (BAB) or sought relief from a Court.

Failure to legally comply with a Building Order is an offence under Section 118 of the Act.

Where an owner fails to comply with a Building Order issued by the MBS, the MBS is empowered to consider prosecution. Non-compliance with Building Orders may result in substantial fines and court orders for property owners if guilt is established by the Court.

Your Appeal Rights

You may choose to appeal the MBS's decision to issue a Building Order to a tribunal which is independent of Council. The Building Appeals Board (BAB) is the statutory venue for hearing disputes under the Act.

For more information go to www.buildingappeals.vic.gov.au.

Seeking Independent Legal Advice

You should seek independent legal advice to clarify your rights and responsibilities under the Act.

The following sources may assist you in seeking independent legal advice:

The Law Institute Victoria: www.liv.asn.au

Victoria Legal Aid: www.legalaid.vic.gov.au

Fitzroy Legal Service: www.flis.org.au

Further Information

The following sources provide key information that explains your rights and obligations in relation to Building Notices.

Building Act and Building Regulations:

www.legislation.vic.gov.au/in-force

Access to the Act and Regulations.

Victorian Building Authority:

www.vba.vic.gov.au.

Access practice notes, ministerial guidelines, and other technical information.

Contact Council

If you have any further questions or would like to know more about the Building Notice process, please contact the Council Building Services team. You may also make an appointment to speak in person should you require additional information.

Council Building Services Team:

Email: building@cgoldshire.vic.gov.au

Phone: (03) 5461 0627