

Making temporary re-establishment/buildings easier for business – Clause 52.07

When a bushfire destroys your home or business premises, getting temporary accommodation or workspace in place quickly can make a huge difference to your recovery.

Clause 52.07 of the planning scheme is designed to help by allowing temporary buildings to be set up on your land without the need for a planning permit. While this streamlines the process, there are still important requirements to follow to ensure safety and compliance.

Does this apply to me?

If your business premises were destroyed or damaged by a bushfire you can use the exemption to build temporary premises without a planning permit - if it's on the same property as the destroyed or damaged premises.

You must have been using the premises lawfully immediately before the building was damaged or destroyed by a bushfire.

I rent my place of business. Can my landlord use clause 52.07 to provide temporary premises for me?

Yes. Your landlord will need to comply with the requirements of clause 52.07 and discuss with the local council.

Laws apply to rental agreements in the event of a disaster. For more information visit the Consumer Affairs Victoria website for renting advice during a disaster at consumer.vic.gov.au.

Does it apply if I wouldn't normally need a planning permit?

No. If you wouldn't normally need a planning permit to use or develop your land for your business, you don't need to use clause 52.07.

What kinds of temporary business buildings does it cover?

Buildings for any use lawfully carried out immediately before the building was damaged or destroyed by a bushfire. The combined gross floor area of all buildings cannot be more than 100 square metres.

What information do I need to give to my council?

If you are eligible for the exemption, before you start building you need to tell council:

- What temporary business building you are planning
- What you intend to use it for
- Where you will be building it – the address, title to or plan of the land, or any combination of the three.

What other approvals do I need?

If you're in a Bushfire Management Overlay, Erosion Management Overlay or Heritage Overlay, council may need to approve the building before you start (including the construction of any building, any works you plan and the removal of vegetation).

This only applies if what you're planning would normally need a permit.

Please note that, in relation to the Bushfire Management Overlay, the siting of buildings will be referred to the Country Fire Authority (CFA) for assessment. The building may only be located on the land subject to approval from the CFA.

How long do I have to build a temporary business building using the exemption?

You must build your temporary business building within 18 months of the bushfire and can only use the building for three years - after that, normal planning requirements apply.

The exemption only applies for three years so that businesses move into safer, permanent premises sooner that meets all normal planning requirements. Three years is generally enough time to move through the rebuilding process, and to reconstruct your premises.

How long can I use the temporary business building without a planning permit?

You can only use the building for three years - after that, normal planning requirements apply.

The exemption only applies for three years so that businesses move into safer, permanent premises sooner that meets all normal planning requirements. Three years is generally enough time to move through the rebuilding process, and to reconstruct your premises.

What if I want to move my business to a different property while I'm rebuilding?

If you want to move your business temporarily to a different property you will need written approval from council.

How big can the temporary business building be?

The combined gross floor area of all buildings you construct under the exemption cannot be larger than 100 square metres.

“Combined gross floor area” means the total floor area of your building, measured from the outside of external walls or the centre of party/dividing walls, and including all roofed areas.

You can build something bigger if you have written permission from council. Contact council to find out what their requirements are for this.

Can I cut back vegetation to build temporary business accommodation?

No. This exemption doesn't cover removing vegetation to build temporary business accommodation.

Temporary accommodation should be sited in cleared areas where possible. If you can't avoid removing native vegetation, you should speak to council about whether you need a planning permit.

What if I need to cut back some vegetation to remove my damaged or destroyed buildings and equipment?

It is okay to cut back or remove vegetation to enable removal of buildings, equipment or other material that was damaged or destroyed by a bushfire within three years of the bushfire.

You can also remove up to four metres of vegetation along a fence to repair or reconstruct a fence within three years of the bushfire.

What if I'm in a flood-prone area?

If you're in a Floodway Overlay, Land Subject to Inundation Overlay or Special Building Overlay you may need approval from the flood plain management authority *if* what you're planning would normally need a permit.

Check with the floodplain management authority about whether approval is required and what information you need to give them. This is usually the Catchment Management Authority for the area.

Can I use the exemption to rebuild a farm shed?

Yes, provided you comply with the other requirements for using the exemption explained in this FAQ.

Can I use it to put up a sign for my business?

No, but there are exemptions for some types of signs in the planning scheme, so you may not need a planning permit. Check with council about what sign requirements apply.

Who can I contact for more information?

- Vic Emergency at emergency.vic.gov.au
- Department of Energy, Environment and Climate Action at deeca.vic.gov.au
- Emergency Recovery Victoria (ERV) at vic.gov.au
- Goulburn Broken Catchment Management Authority at gbcma.vic.gov.au
- You can check what overlays apply to your property by creating a Planning Property Report at planning.vic.gov.au or by viewing
- VicPlan at mapshare.vic.gov.au