# PLANNING AND ENVIRONMENT Division GUIDELINES ELAPSED DAYS IN FAILURE APPLICATIONS Calculator

## The Four Steps Table

Before completing the four steps table, it is important to read understand the notes set out on the second page of this form.

|  |  |  |
| --- | --- | --- |
| **Step 1** | The date the permit application was first received by the Responsible Authority. |  |
| The date the permit applicant applied to amend the permit application. |  |
| The date the permit applicant agreed to an amendment of the permit application. |  |
| The date further information required within the prescribed time is given to the Responsible Authority. |  |
| **Start date: the most recent of above dates** |  |

|  |  |  |
| --- | --- | --- |
| **Step 2** | Start date |  |
| Date VCAT application received |  |
| **Total days counted** |  |

|  |  |  |
| --- | --- | --- |
| **Step 3** | Date notice requirement made |  |
| Date last notice given |  |
| **Notice days counted** |  |

|  |  |  |
| --- | --- | --- |
| **Step 4** | Total days counted in Step 2 |  |
| Notice days counted in Step 3 |  |
| **Total days minus Notice days** |  |

**If the total days minus the notice days is 60 days or less, the application is premature.**

## The four step calculator

**Step 1** - Ascertain the start date

**Step 2** - Count the total days that have elapsed from the start date to the date the application review was or is to be received by VCAT.

**Step 3** - Count the “notice” days that elapsed while giving notice of the permit application under section 52 of the *Planning and Environment Act 1987* (Vic).

**Step 4** - Calculate the number of prescribed days that have elapsed by subtracting the “notice” days counted in Step 2, from the total days counted in Step 1. If the total days minus the notice days is 60 days or less, the application is premature.

Use the coloured tables overleaf as an aid to undertaking this calculation.

## Notes on the Four Step Calculator

### Step 1 and the start date

The start date is the most recent of the dates determined as follows:

1. The date the permit application was first received by the Responsible Authority.
2. The date the permit applicant applied to amend the permit application under section 50 of the *Planning and Environment Act 1987* (Vic). (See section 50(7)(b))
3. The date the permit applicant agreed to an amendment of the permit application proposed by the Responsible Authority pursuant to section 50A of the *Planning and Environment Act 1987* (Vic). (See section 50A(5)(b))
4. The date more information is given to the Responsible Authority in accordance with a written request made within the prescribed time under section 54 of the *Planning and Environment Act 1987* (Vic). (Clause 18(b) of the *Planning and Environment Regulations 2015* (Vic) provides that the prescribed time in respect of a responsible authority’s request for more information is 28 days. This is calculated from the date written notice of the requirement is despatched to the permit applicant (See *Wilbow Corporation Pty Ltd v Boroondara CC* [2006] VCAT 437)).

### Step 3 – The giving of notice

For the purposes of counting the days that elapsed giving notice:-

1. The date a requirement to give notice of a permit application is made is the date the written requirement is despatched to the permit applicant by the Responsible Authority.
2. The date the last notice was given is usually the most recent of the following dates:
   1. The date the last notice was posted, or;
   2. The date the last notice was erected upon the land, or;
   3. The last date a notice was published in a newspaper.