

# OWNER BUILDER KIT

*including*

## OWNER BUILDER GUIDELINES



The *Building Act 2000* requires that anyone intending to be an owner builder must read and understand the information in this Kit prior to signing the *Owner Builder Declaration* on Approved Form 34.

This Kit is also available for download at [www.wst.tas.gov.au/building](http://www.wst.tas.gov.au/building)

### DEPARTMENT OF JUSTICE

Workplace Standards Tasmania

Building Control Branch

PO BOX 56, ROSNY PARK, TASMANIA, 7018

Phone: 1300 366 322

Email: [wstinfo@justice.tas.gov.au](mailto:wstinfo@justice.tas.gov.au)



## **4 steps to becoming an owner builder**

- 1.** Develop your plans with your architect or building designer and decide whether you want to become an owner builder. *This Owner Builder Kit provides information about your responsibilities as an owner builder.*
- 2.** Take your completed plans to a building surveyor and advise them that you intend to be an owner builder. You will need to complete an *Owner Builder Declaration* (Form 34), attached to the back of this Kit and give a copy of it to your building surveyor.
- 3.** Ask the building surveyor to seek confirmation from the Director of Building Control that you are eligible to act as an owner builder. If you are confirmed as eligible and the building design complies with the provisions of the *Building Act 2000*, the building surveyor will issue you with a *Certificate of Likely Compliance*.
- 4.** Apply for a building permit from your local council permit authority. You will need to include all design documents, original of the completed *Owner Builder Declaration* and the *Certificate of Likely Compliance* with your application for a building permit.

*Please read the information in this Kit in detail*

# CONTENTS

Foreword by the Manager Building Standards and Regulation	4
PART 1 Introduction to the Owner Builder Kit	5
PART 2 Being an Owner Builder	7
PART 3 Owner Builders and Building Legislation	10
PART 4 The Owner Builder Declaration (Form 34)	19
PART 5 Owner Builder Registration Process	21
PART 6 Steps in the Process of Building	23
PART 7 The Building Permit Process	30
PART 8 Hiring Subcontractors and Tradespersons	34
PART 9 Obtaining Finance	37
PART 10 Insurance	39
PART 11 Work in Progress	41
PART 12 Workplace Health and Safety	42
PART 13 Electrical Work	44
PART 14 Plumbing and Gas-Fitting Work	45
PART 15 Further references	46
Appendix: <i>Owner Builder Declaration</i> Form 34	

# Foreword to the Owner Builder Kit and Guidelines

Home ownership has long been a part of the great Australian dream. For many people, actually building their own home is an even greater part of that dream.

Anyone who decides to build their own home will be faced with many decisions. One of the most important decisions is whether to use an accredited building practitioner, or whether to become an owner builder.

For many people their home is the greatest single investment they will ever make. With such an investment there is considerable risk for someone without building knowledge and experience to start building their own home. They need to ensure that the house is built safely and in accordance with building standards and codes.

Under the *Building Act 2000*, owner builders have certain responsibilities and restrictions placed upon them. Some of these responsibilities include knowing how to build a house, supervising the construction and ensuring appropriate insurances are in place to protect the work and those who undertake it. There is also the need to understand when specialist tradesmen are required to perform certain work, how to manage the entire process of purchasing the materials and the financial implications involved.

The impact on personal time, delays that may occur and the intrusion it can have on family or sporting life are important considerations when thinking about becoming an owner builder.

Becoming an owner builder can be very rewarding. This Kit provides information to help you understand the risks you must consider and the procedures you must follow if you become an owner builder. Taking the time to read this document will prepare you for the responsibilities that come with this experience.

Graeme R Hunt  
**Manager Building Standards and Regulation**

## PART 1 Introduction

On July 1 2004, Tasmania's *Building Act 2000* became fully operational. A major reform included in the Act was the accreditation of building practitioners as a means of ensuring that those involved in the design, construction and assessment of buildings are appropriately qualified, insured and accountable.

These provisions do not prevent genuine owner builders from constructing their own buildings and subsections 3(a) and (e) of section 23 of the Act, reproduced below, show that owner builders are specifically exempt from the accreditation requirements. In all other respects, owner builders are bound by the provisions of the Act and are expected to meet all its requirements.

### 23. Offences relating to accreditation

- (1) A person must not carry out the work of a building practitioner in connection with building work which requires a building permit and the cost of which exceeds \$5 000 unless the person is accredited under this Part in the relevant category and class as specified in the scheme.

Penalty:

In the case of –

- (a) a natural person, a fine not exceeding 100 penalty units; or
- (b) a body corporate, a fine not exceeding 500 penalty units.

- (2) A person must not purport to be an accredited building practitioner unless the person is accredited under this Part.

Penalty:

In the case of –

- (a) a natural person, a fine not exceeding 100 penalty units; or
- (b) a body corporate, a fine not exceeding 500 penalty units.

- (3) Subsection (1) does not apply to –

- (a) an owner builder or a person engaged by an owner builder to carry out building work; or
- (b) a plumber carrying out a class of plumbing work as defined by the *Plumbers and Gas-fitters Registration Act 1951* that requires a building permit; or
- (c) a plumber carrying out the replacement of roof decking that requires a building permit; or
- (d) a person carrying out electrical work as defined by the *Electricity Industry Safety and Administration Act 1997* that requires a building permit; or
- (e) an owner builder who designs their own building work.

This Kit has been produced by the staff of the Building Control Branch of Workplace Standards Tasmania to assist in preparing intending owner builders for the challenge they will be taking on, so they will meet the same high standards that are expected of accredited building practitioners.

## WHAT IS AN OWNER BUILDER?

Under Tasmania's current building legislation, an owner builder is expected to perform no differently from an accredited builder and to take responsibility for the organisation of labour, the sourcing of material, payment of employees and sub-contractors, income tax, workers compensation, public liability, occupational health and safety and achieving a standard of building that satisfies the performance requirements of the Building Code of Australia and the relevant standards. Some owner builders will in addition undertake the physical work of building, as far as it is permitted by legislation.

Building is carried out under the supervision of an accredited building surveyor who has statutory duties under the *Building Act 2000* to ensure that all building work complies with the Act. An owner builder must complete the building to the same standards as that of an accredited builder before the building surveyor can issue an occupancy permit and a certificate of final inspection.

## WHY SHOULD YOU HAVE AN OWNER BUILDER KIT?

This document provides guidance to ensure that people intending to become a genuine owner builder are aware of their duties and obligations under the *Building Act 2000* and other legislation and to alert them to some of the risks and responsibilities of becoming an owner builder.

When you complete the Owner Builder Declaration (Form 34) in which among other things you state that you have read and understood the guidelines for being an owner builder in this Kit, your building surveyor and the council Permit Authority can be reasonably certain that you are aware of your responsibilities and appreciate the risks.

Future purchasers of buildings built by owner builders will have confidence that the owner builder has been guided in following correct building regulatory processes and has been made aware of the many pitfalls that can arise when someone with little or no experience undertakes an owner builder project.

## ARE YOU ELIGIBLE TO ACT AS AN OWNER BUILDER?

Since the *Building Act 2000* commenced on 1 July 2004, intending owner builders have had to meet certain conditions to be eligible:

- you must own the land on which you intend to build;
- you must not be in the business of building;
- you may not construct more than two buildings of any class except Class 10 in a ten year period, not including any you may have built prior to the commencement of the Act;
- you must sign an Owner Builder Declaration (Form 34) that you meet the above conditions and that you have read and understood the Owner Builder information and guidelines contained in this Kit;
- you must engage the services of an accredited building surveyor who will obtain confirmation from the Director of Building Control that you are eligible to act as an owner builder prior to issuing you with a certificate of likely compliance for your project.

*These conditions are covered in more detail in Parts 3, 4 and 5 of this Kit.*

It is your responsibility to check that you can satisfy all of these conditions and are eligible to act as an owner builder before you go too far with your project. An owner builder often has the expectation that there will be some financial saving, but if you assume that you will be able to act as an owner builder when you are not eligible to do so there could be undesirable implications for the success of your project both in financial and practical terms.

## DON'T BE CONNED

Some non-accredited people claiming knowledge of building, and even some accredited builders have offered their services to prospective home owners on condition that the owner poses as an owner builder. They offer promises of cost savings but what they are really offering is the risk of work performed by untrained or unqualified people.

## PART 2 Being an Owner Builder

### TYPES OF OWNER BUILDER

When people say they intend to be an “owner builder”, this may mean different things to different people. Persons who are land owners who plan to build on their land and either carry out the building work themselves, or co-ordinate the different tasks and the tradespersons to construct the building in accordance with the *Building Act 2000*, are considered to be owner builders.

#### **Option One**

You take on the role of the builder and build everything yourself without engaging tradespeople (except in areas where licensed tradespeople are required by law, such as electricians and plumbers). **You are the responsible builder.**

#### **Option Two**

You are the builder and do some of the work yourself and you oversee the project through to completion, but hire subcontractors or tradespeople to do part of the building work (for example framing or roof tiling). **You are the responsible builder.**

#### **Option Three**

The owner builder is the construction manager; you organise all the materials and subcontractors (including perhaps an accredited builder) to create your building. You carry insurances, organise site management and safety, supervise progress and make your own inspections of the progress of works. **You are the responsible builder.**

### WHY HAVE OWNER BUILDER RESTRICTIONS?

**Provisions in the *Building Act 2000* relating to owner builders are designed to: -**

- enable a reasonable outcome for genuine owner builders who intend to build on their own land;
- reduce the number of builders (in the business of building) falsely claiming to be building their own home in order to avoid the mandatory insurance and accreditation provisions of the *Building Act 2000*;
- protect consumers by ensuring that non-accredited persons who are in the business of building do not persuade unsuspecting clients to become “owner builders”.

### Also: -

- Limitations on owner builders reinforce the owner builder category as being separate from Accredited Building Practitioners who are allowed by law to carry on a business of constructing buildings. The owner builder provisions will not prevent genuine owner builders from building their own home or adding to their own home.
- Various restrictions on the work that owner builders can do are enforced in every other state and territory of Australia.
- Owner builders are limited to working on two buildings in 10 years on their own land.

## ENFORCEMENT

To enforce the restrictions on owner builders the Director of Building Control records the names and details of every owner builder on a database and monitors their building activities. An owner builder will not be issued with a building permit *unless* their building surveyor has obtained an Owner Builder Registration Number from the Director (smaller projects may be exempted from registration, see Part 4). An owner builder must then not start work or permit any work under their control to start before notifying their building surveyor in accordance with the *Building Regulations 2004*.

It is an offence under the *Building Act 2000* that a person, in providing any information, statement, report or document, must not –

- (a) provide it knowing it to be false or misleading; or
- (b) omit any matter knowing that without that matter the information, statement, report or document is false or misleading.

## ARE YOU READY TO BE AN OWNER BUILDER?

Many people wish to be more directly involved with the construction of their own home. There are many reasons for this; to satisfy a desire for self-expression, or a belief that it may save money. Of course whether you can do it yourself competently while actually saving money will depend on your level of competence in the many and varied tasks to be undertaken. **Your dream home can become a nightmare if you do not plan correctly.** Research, administration, organisation and communication skills are just as important as technical building skills for the owner builder.

## THINGS TO CONSIDER

- Distressing tales abound of people who embarked on an owner builder program or purchased what was labelled a “kit home” hoping to realise their dream home, only to meet with some degree of failure or financial loss.
- Many owner builders lack basic skills, direction and experience. Consider the level of your confidence and ability, as the best-laid plans do go astray. It would be unwise to undertake tasks you do not feel confident about.
- Relationships can be seriously tested before and during the construction process.
- Building a house is a very time consuming and labour intensive task and needs a great deal of forward planning.
- Lending institutions may shy away from owner builders as they often lack the expertise and full knowledge of the commitment they are about to undertake.

The *Building Act 2000* introduced a system of Accredited Building Practitioners, and this has many advantages to offer consumers. Why take on the worry of being an owner builder when there are technically competent designers and builders who will take on the duties and obligations required under the Act for the proposed building work.

**Before applying to become an owner builder, ask yourself these questions:**

- How much of your work and time can you dedicate to the project?
- What is your knowledge of the building industry?
- What is the condition of your health? (e.g. no back problems);
- Are you willing to be called back by subsequent owners to fix faults in workmanship?
- Can your marriage/relationship handle the stress involved with so many things that can (and probably will) go wrong?
- If intending to use sub-contractors, are you qualified or capable of supervising all construction work and have you the ability to co-ordinate the flow of work by sub-contractors to enable you to complete the project inside your time and cost schedule and the period required by the building permit for completion of the work (normally within two years)?
- Are you able to handle financial or contractual disputes with sub-contractors?
- What about your availability to be on-site to receive materials and ensure that they comply with specifications of required quantity and quality?
- Do you have the ability to distinguish technically what is defective building work?
- Are you aware of the Occupational Health and Safety laws and requirements of Workplace Standards Tasmania for safety on any building site?
- Do you have the experience to establish the value of work completed on the project to enable you to make accurate payments to sub-contractors?
- Are you able to predict material and labour cost increases during the project, and will you have sufficient money left over to decorate your home?
- Are you able to determine if your proposed home site contains reactive clay, problem soils or is in a zoned landslip area?
- Are you aware of time limits? - building work for which a permit is granted by the Permit Authority (local council) must be *commenced* within one year and *completed* within two years unless other arrangements are made with the Permit Authority;
- Is an existing property you intend to demolish, renovate, or alter subject to a listing (and hence restrictions) under the Historic Cultural Heritage Act, and are you aware that old buildings may contain hazardous materials such as lead paint and asbestos?
- Are you aware of the exact boundaries of your land as this is your responsibility? You may have to engage a Registered Land Surveyor to check if the boundary pegs are in the correct place;
- Are you prepared to supervise the building work, obtain a Certificate of Likely Compliance from an accredited building surveyor, arrange planning, building and plumbing permits, and required inspections, and make sure that the entire project is completed properly?

- Are you aware and able to make appropriate payments to all contractors and be aware of obligations of the Australian Taxation Office for taxation and superannuation requirements?

## DEGREE OF INVOLVEMENT

- The intending owner builder should consider their family's needs. The role of an owner builder is demanding, especially if you have a full time job and a family to support and think about. A building program will need the full support and cooperation of your partner and family.
- As an owner builder **you have decided to take on all the tasks that a builder must do** to complete a successful construction project. You must allocate time almost every day to visit the site and keep activities on schedule, check occupational health and safety requirements, order materials, visit suppliers and hardware stores and make phone calls to remind tradesmen to advise you of delays or revised site timing schedules.
- Calculate the absolute amount of time available to spare on the project. The cost of time spent on the project must be measured against money lost as foregone business earnings, time spent at your place of employment or with your family.

Unless you are confident that you can meet all of these and other competing requirements, you should seriously reconsider whether you should be an owner builder. Accredited Building Practitioners in Tasmania are equipped to provide all of these services and take all the responsibility for the construction and on-going satisfactory performance for your home.

You can find a **Register of Accredited Building Practitioners** by following the links on the Building Control Branch website: [www.wst.tas.gov.au/building](http://www.wst.tas.gov.au/building)

## PART 3 Owner Builders and Building Legislation

### ***In this part you will find:***

- the legal definition of an owner builder, the work that they can do and the restrictions on owner builders;
- the requirements of building legislation that owner builders must comply with, including the *Building Act 2000*, *Building Regulations 2004*, the *Plumbing Regulations 2004* and the Building Code of Australia (BCA).

### ***Legal definition of owner builder:***

The definition in section 3 of the *Building Act 2000* is as follows:

**“owner builder”** means a person who-

- (a) *carries out building work on a building on land owned by the person; and*
- (b) *is not carrying on the business of building; and*
- (c) *has not constructed more than 2 buildings of any classification (including in the case of a Class 1 building more than two groups of buildings which in association constitute a Class 1 building), other than Class 10 building, in the last 10 years not including any years prior to the commencement of this Act; and*

(d) *has made a statement referred to in section 24.*

*What does this definition mean?*

### **The intended building work must be on land owned by the owner builder**

This means that the owner builder must either own the land upon which the work is to be carried out or have contracted to purchase. Evidence of ownership is by a copy of the Certificate of Title/ Title Deeds or a signed copy of the contract of purchase.

### **If a company or incorporated association owns land, can it be the owner builder?**

**Yes** - where the registered owner of the land is a body corporate, it can apply to be an owner builder and the directors, or a public officer, signing on behalf of the body.

### **Where the land is jointly owned**

Where more than one person, e.g. a husband and wife, or a business partnership, are named on the certificate of title to the land as joint tenants, or as tenants in common, all the joint owners constitute the owner builder and all owners must sign the Owner Builder Declaration (Form 34).

### **Can a tenant or lessee be an owner builder?**

No - because a tenant does not *own* the land and instead the landlord must be the owner builder applicant. However, in certain *special circumstances*, a lessee with a long-term lease, such as a Crown land lease, may be permitted to apply to be registered as an owner builder.

### **Can I be an owner builder for a Strata Title Scheme property?**

**Yes** – you may build on the lot that you own as part of a strata title scheme. You must ensure that you have complied with the by-laws of the scheme and if necessary obtained permission of the relevant body corporate before applying to carry out building work. For more information about strata title schemes see the publication “*Strata Living in Tasmania*” available from the Department of Primary Industry and Water.

### **The owner builder applicant must not be in the business of building**

- The *Building Act 2000* will allow only genuine owner builders to build as owner builders. Accredited builders cannot also be an owner builder as they have a licence to build and have no need to complete the Owner Builder Declaration.
- You should seek information about becoming an accredited building practitioner if your occupation or business will be as a builder or another category of building practitioner.
- A building permit granted to an owner builder also does not allow the owner builder to do any licensed specialist trade work such as electrical, plumbing or gas-fitting, or removal of asbestos.

### **Restrictions on the number of owner builder constructed buildings**

The definition of owner builder in section 3 of the Building Act provides that an owner builder is allowed to build two (2) buildings of any Classification within any ten (10) year period after the *Building Act* commenced on 1 July 2004. “Classification” refers to the

building classification scheme in the Building Code of Australia. Owner builders can build a building of any Classification – meaning they are not restricted to dwellings. For example they can construct an office, shop, or machinery shed on a farm. A building Classification relates to the entire building and the following are some examples of types of buildings and their Classifications:

- Class 1a house;
- Class 2 multistorey apartments;
- Class 5 office;
- Class 6 shop;
- Class 10 outbuildings, (e.g. garages, carports, sheds, swimming pools *and the like*).

The two buildings in 10 years restriction for owner builders does not apply to Class 10 buildings.

**Example 1:**

Graeme purchased lots in a new subdivision. Although he is not an accredited builder he says he is a “spec builder” and has been buying land, building on it and then selling to fund his next project. Graeme applies as an “owner builder” to build two houses on the lots. After completion, he sells these houses and then applies again as an “owner builder” to build a house “for himself” on another lot. Can he do this?

**Answer:**

**No** - as the two houses he has constructed and sold have completed Graeme’s owner builder quota of “two buildings in ten years”. He is prevented from building a third project as an owner builder and must have an accredited builder take responsibility for the third house he wants to build. Graeme will be prosecuted if he tries to evade this restriction on owner builders.

If Graeme wants to legally enter the building business he should apply to become an accredited builder.

**Are there restrictions on the number of owner builder alterations?**

An owner builder can carry out any number of alterations, extensions and additions to buildings on land they own, but only in relation to *two buildings* they own (or have owned) in the ten year period. The first owner builder building, or the first alteration to an existing building counts towards the total of two projects in ten years, however further alterations and additions to a building which is already counted as one of their owner builder buildings, do not count as further owner builder projects.

**Example 2:**

Cheryl constructs a house as an owner builder. This is her first owner builder project. She then builds an extension to that house as an owner builder. Later she buys a cottage on another site and intends to carry out building work as an owner builder to convert it to a guest house. Can she do this?

**Answer:**

**Yes** - Cheryl can do this project on the guest house conversion as an owner builder because it is only the second of the two projects she is allowed to undertake in any ten year period. The extension she built on to her first owner builder house does not count

towards her total of two owner builder projects in a ten year period, neither do any later extensions or alterations to the same house. If she needs to, she can also undertake any further number of alterations or extensions to her second owner builder project, the guesthouse, however the first conversion of the cottage counts towards her total because it is the first owner builder project for that property.

### **Are alterations to existing buildings counted as owner builder projects?**

**Yes** - an alteration or addition commenced after 1 July 2004 to a building that existed prior to that date will activate that building as the one of two buildings allowed in the ten year owner builder period.

#### ***Example 3:***

Tanya buys a farmhouse and renovates it as bed and breakfast accommodation. She then converts the farm stables into offices. Both her building projects are as an owner builder. Tanya now wants to build houses on adjoining farmland. Can she do this as an owner builder?

#### ***Answer:***

**No** - although the building work that Tanya has performed were alterations of existing buildings, because she has already been the owner builder on two buildings (farmhouse and stables) she cannot do a third owner builder project on another building within ten years of completion of the farmhouse renovation (which is counted as her first owner builder project).

### **Are there restrictions on the number of sheds, carports and outbuildings that an owner builder can construct?**

**No** - sheds, garages and other separate outbuildings are not counted in the “two in ten years” restriction. These buildings or structures are classified under the Building Code of Australia as Class 10 and they are excluded from the range of buildings that owner builders are restricted in building in any ten-year period. Owner builders are not restricted in the number of garages, carports and sheds they can construct, on their own land, subject to planning and building permission.

#### ***Example 4:***

Jennie builds a shed, a garage and a carport on her land as three separate owner builder projects. Does this infringe the owner builder provisions?

#### ***Answer:***

**No** - as an owner builder Jennie can build as many outbuildings (Class 10 buildings or structures) on her land as she wants without invoking the “two in ten year” restriction on owner builders. Later she could still construct two houses as her first and second owner builder projects.

### **From when does the owner builder time limit run?**

Owner builder restrictions only apply to new buildings or new building work constructed by an owner builder *after* 1 July 2004. It does not include any buildings constructed by an owner builder before that date. The “two in ten year” period starts from when the first building project was started by the owner builder (e.g. when the Start Work Notice was provided to the Building Surveyor).

### **Example 5:**

Brendon is an owner builder and he started construction of his first building in 2009. When does the ten year period end which limits him to one more owner builder constructed building?

### **Answer:**

In 2019. That means that Brendon can still construct one more building of any classification between 2009 and 2019 as an owner builder.

### **What about work started before the Act commenced and not completed?**

Work of an owner builder that required a building permit and the cost exceeded \$5,000 that was started and not finished prior to the commencement of the *Building Act 2000* on 1 July 2004 is not taken into account in determining the work of an owner builder (reference: *Building Regulations 2004*, Schedule 6, Item 2).

### **Do owner builders have to do all the building work themselves?**

**No** - they may choose either to carry out all the building work themselves, or act as the construction manager of their project by engaging labourers, tradespersons and subcontractors to perform various tasks.

### **Is there a monetary limit on the work an owner builder can do?**

**No** - an owner builder can do building work of any value.

If work is *under \$5,000* the owner builder does not need Registration by the Director of Building Control, but the owner builder still needs to sign the Owner Builder Declaration (Form 34) and provide it to the council when applying for a building permit.

### **What types of work can an owner builder do?**

Being an owner builder may include the carrying out or supervising the following types of building work: (Note: a building permit is required for this work):

- new building work, including a new dwelling;
- renovations or alterations;
- extensions and additions;
- removing or altering load bearing walls;
- works that may involve a change of use of the premises, e.g. converting a shop into a residence, or converting a garage into habitable space such as a bedroom;
- garages, carports, and sheds;
- swimming pools and pool fences;
- building a deck;
- certain other structures and improvements including building retaining walls or fences over a certain height;
- demolition work is *also* defined as building work and requires a Building Permit.

**Owner builders cannot do** any work for which an occupational licence is required – this means any electrical or plumbing work. A licensed asbestos removalist must also do large asbestos removal jobs. Owner builders cannot do this type of work and a licensed contractor must carry it out – otherwise the owner builder can be prosecuted.

### **Is there a requirement that owner builders be registered?**

**Yes** - persons intending to become an owner builder must arrange with their building surveyor to obtain an Owner Builder Registration Number from the Director of Building Control.

However owner builder registration is **not required** for:

- building work *under \$5,000* (cost of the labour and materials) or
- work on any non-habitable outbuildings (called 'Class 10' buildings) such as small sheds, garages, carports, pergolas or similar.

See Part 5 of this Kit for information about Owner Builder Registration.

### **Is there a Register kept of owner builders?**

**Yes** - the Director of Building Control maintains details of persons who have been registered as owner builders in Tasmania. In addition:

- all owner builders must provide their building surveyor with a Start Work Notice (Approved Form 39) when commencing building work;
- the building surveyor must send a *copy* of the Start Work Notice to the Director of Building Control advising that it is an owner builder project and a description of the work to be carried out;
- the Director then adds the information to the Register kept of owner builder activities.

### **Are there fines for infringing the owner builder restrictions?**

**Yes** – the Register of Owner Builders maintained by the Director of Building Control is continuously checked and “owner builders” who attempt to construct more than two buildings in ten years will be prosecuted. This is to protect consumers against “speculative builders” who have no accreditation and insurance and are operating a building business simply through buying and selling land. Persons who sign the Owner Builder Declaration (Form 34) and provide false or misleading information will also be prosecuted.

### **Other areas where owner builders may be subject to legal action include:**

- starting building work without permits;
- doing any work that only a licensed electrician or plumber can do or asbestos removal without a licence;
- maintaining a building site that is unsafe for workers;
- causing environmental nuisances or hazards (dust, noise, dirt on roads).

### **Are there any qualifications required to be an owner builder?**

**Yes** - eligibility through meeting the conditions set out in the Act. The Director of Building Control maintains an Owner Builder Register of people who have applied for a registration number through their building surveyor and also keeps details of persons who have started work as an owner builder.

### **Does owner builder experience entitle a person to become an accredited builder?**

**No** - a person who wants to become an accredited (licensed) builder in Tasmania needs to obtain a qualification in building, prove that they have completed a specified period of relevant experience and have appropriate insurance before they can apply to be accredited as a building practitioner.

### **Can an accredited builder also be an owner builder?**

**No** - because they are in the business of building. They are free to build on their own land for their own purposes, but will quote their accreditation number on the application forms, and do not need to complete the Owner Builder Declaration (Form 34).

### **Do owner builders have the same responsibilities as accredited builders?**

**Yes** - owner builders are required by law to meet the same legislative requirements relating to building work as accredited builders. These requirements are contained in the *Building Act 2000* and *Building Regulations 2004* and Building Code of Australia (BCA). They include:

- obtaining a Certificate of Likely Compliance;
- obtaining planning, building and plumbing permits;
- notifying the building surveyor of prescribed stages of building work;
- construction in accordance with the permit and any conditions and to the standard required by the Building Code of Australia;
- payment of all fees, charges and levies associated with the work.

Note that “**building work**” is defined in the Building Act as work relating to:

- (a) *erecting, re-erecting, constructing, altering, repairing, underpinning, demolishing or removing a building; and*
- (b) *adding to a building; and*
- (c) *excavating or filling incidental to an activity referred to in paragraph (a) or (b); and*
- (d) *any other prescribed work.*

The *Building Regulations 2004* prescribe the following as building work:

**5.** *For the purpose of the definition of “building work” in section 3(1) of the Act, the following work is prescribed as building work:*

- (a) *work in relation to the erection, re-erection, alteration and removal of an unregistrable relocatable building [includes a prefabricated house or cabin] or a shipping container;*
- (b) *the installation, or alteration, of a fire safety system or any part of a fire safety system;*
- (c) *The installation of a ducted heating, cooling, ventilation or air-conditioning system in a building that is not a Class 1 building or sole occupancy units within a Class 2 building or Class 4 building;*
- (d) *the installation of a passenger lift;*
- (e) *plumbing work for the purposes of calculating the building permit levy payable under section 270 of the Act;*
- (f) *plumbing work over or within a service easement for the purposes of section 161 of the Act.*

The definition of “**building**” includes a proposed building, part of a building, a structure and part of a structure.

### **Duties of Builders**

The *Building Act 2000* sets out the duties of builders. As an owner builder you are also assuming these same duties:

#### ***Duties of builders and plumbers***

14. (1) *A builder or plumber is to ensure that he or she acts only within the area of his or her competence.*
- (2) *A builder who carries out building work or a plumber who carries out plumbing work is to ensure that –*
  - (a) *a relevant permit, authorisation or notification is issued for the work before it is commenced; and*
  - (b) *any directions under this Act are complied with.*
- (3) *A builder who carries out building work or a plumber who carries out plumbing work, so far as is reasonably practicable, is to ensure that –*
  - (a) *the work is carried out in accordance with the relevant permit or authorisation and this Act; and*
  - (b) *the quality of the materials used in the work is in accordance with the relevant permit or authorisation and this Act; and*
  - (c) *the building work is located on land owned by the owner; and*
  - (d) *the work is carried out in a manner that does not cause –*
    - (i) *a public health risk; or*
    - (ii) *a danger to the public; or*
    - (iii) *a nuisance to an adjoining owner; or*
    - (iv) *damage to infrastructure; and*
  - (e) *sufficient information is supplied to the owner for the owner to maintain the building in accordance with this Act.*

### **What are some of the other responsibilities of an owner builder under the *Building Act 2000*?**

The owner builder, as both a **landowner** and **as a builder for their own project**, has responsibilities to:

- obtain a Certificate of Likely Compliance from a Building Surveyor prior to applying for a building permit;
- obtain a Building Permit and a Plumbing Permit from the Permit Authority prior to commencing any building or plumbing work;
- clearly identify the building or land on which the building work is to be carried out;
- make a Declaration on the Approved Form No 34 declaring awareness of your obligations as an owner builder;
- comply with the Building Permit and Plumbing Permit and the permit documents and conditions as issued by the Permit Authority (local council);

- ensure building work is located on land owned by the owner;
- ensure that the building work is carried out in a manner that does not cause -
  - i. a public health risk; or
  - ii. a danger to the public; or
  - iii. a nuisance to an adjoining owner; or
  - iv. damage to council infrastructure;
- notify the Building Surveyor within the specified period before each notifiable stage of the building work to allow inspections of work;
- obtain an Occupancy Permit prior to occupancy;
- obtain a Certificate of Completion (for both the building work and the plumbing work) from the Permit Authority after all work is completed.

### **The Duties of an Owner**

The *Building Act 2000* section 12 (1) sets out the duties of owners under the Act:

*The owner of a building who authorises building work in respect of the building, so far as is reasonably practicable, is to ensure that –*

*(a) any person engaged to carry out the building work and associated building work is an accredited building practitioner if so required under this Act; and*

*(b) correct information is provided to any person engaged to carry out the building work and associated building work; and*

*(c) the building or land on which the building work is to be carried out is clearly identifiable; and*

*(d) provisions for the protection of adjoining property are carried out in accordance with this Act; and*

*(e) the building is not occupied until an occupancy permit has been issued; and*

*(f) sufficient information is supplied to the next owner for that owner to maintain the building in accordance with this Act.*

**(2)** *An owner who engages a person to carry out any plumbing work is to ensure, so far as is reasonably practicable, that the person is a plumber if so required under the Plumbers and Gas-fitters Registration Act 1951.*

**(3)** *An owner who engages a person to design plumbing work is to ensure, so far as is reasonably practicable, that the person is –*

*(a) an accredited building practitioner; or*

*(b) a plumber.*

**(4)** *The owner of a building, so far as is reasonably practicable, is to ensure that the building is used and maintained for the intended purpose in accordance with this Act.*

### **Does all building work require a Building Permit?**

An owner builder must ensure that a relevant building permit, authorisation or notification is obtained before building work is commenced. Types of work that do not need building permits are found in the *Building Regulations 2004*. The Regulations provide for particular buildings and structures **of a minor nature** that do not require a building permit. These

include specific small outbuildings, open pergolas, garden arches, trellis or frames, small swimming pools, a non-roofed windmill, a small mast, antenna or flagpole, boundary fences (if under a certain height), small retaining walls, certain water tanks and tank stands, and builder's site sheds. Before determining whether or not a building permit is required for any proposed building work it is imperative that the applicability of the *Building Regulations 2004* is verified. You will be able to obtain advice from a Building Surveyor or from the Permit Authority.

### **The role of the Permit Authority and the Council**

Under the *Building Act 2000* each municipal council has authorised a person or body as a **Permit Authority** to receive and process applications for permits to carry out *building* work. The Permit Authority is located at your local council office. There will also be a Permit Authority appointed to assess and issue *plumbing* permits. The Building Act makes the General Manager of the Council the Permit Authority until a council authorises another person. The General Manager may delegate his powers to another person.

The municipal council has a duty under the *Building Act 2000*, as far as is reasonably practicable, to ensure that the owners of property are informed of their duties under the Act in relation to building work or plumbing work and in maintaining and using buildings. The council can assist the owner builder with information on matters such as planning, environmental health, landslips, contaminated land and flood prone land.

## **PART 4 The Owner Builder Declaration (Form 34)**

### **What is the Owner Builder Declaration?**

This Owner Builder Kit makes a number of references to a form called an **Owner Builder Declaration**, also known as 'Form 34'. All persons who intend to be an owner builder will be required to sign a copy of the Declaration. Signing will signify that the parties are aware of their obligations as an owner builder. By reading this Kit you find out what the major obligations are.

### **Is filling in all the details on the Form 34 important?**

**Yes** - the information provided must be as accurate as possible and truthful. If details are missing you may be asked to provide further documentation. Your application will then be delayed and your owner builder project may be held up, costing you time and money.

### **Is signing the Declaration important?**

**Yes** - because if it is not signed your owner builder project cannot proceed.

### **Do all owners need to sign?**

**Yes** - all the registered land owners. Otherwise the application may be rejected and your owner builder project cannot proceed.

### **Is the Declaration needed for all owner builder projects?**

**Yes** - for all projects, including those where an owner builder does not need registration (e.g. work valued for less than \$5,000 or on Class 10 buildings).

### **Who should owner builders give the Declaration to?**

1. The original signed Declaration must always be provided to the Council (Permit Authority) when making an application for a building permit. It is a prescribed document to accompany an application. You will need to provide three copies of the Declaration when you apply for a building permit.

2. Give a copy to your building surveyor after he/she has initialled it. The Form is required by the building surveyor to process your registration as an owner builder; see Chapter 5 on Owner builder Registration.

### **Where can I obtain this Declaration?**

There is a copy at the back of this Kit that can be removed and signed. Additional copies can be obtained from:

- The Workplace Standards Tasmania website: [www.wst.tas.gov.au/building](http://www.wst.tas.gov.au/building)
- Councils; or
- Building Surveyors.

### ***How to complete the Owner Builder Declaration (Form 34)***

#### **Part 1 - Applicant Details**

Provide full names and date of birth of all the land owners. If there are more than two joint land owners attach a separate sheet of paper with the details of each additional owner. If the land is owned by a body corporate (including a company registered by ASIC or an incorporated association) the authorised person (e.g. company secretary, public officer) will complete these details and sign the form on behalf of the body.

#### **Part 2 - Details of Proposed Work**

Provide the location, type of building work and main use of the building.

#### **Part 3 – Information to be provided by your Building Surveyor**

1. An estimate of the cost of the building work (labour, materials and GST) as if the work were to be performed by an accredited builder; and
2. The Building Code of Australia (BCA) Classification of the building.

*Please ensure that your building surveyor completes these details, provides their accreditation number and initials their entry on the Declaration.*

#### **Part 4 - Previous Owner Builder work by applicants**

Only include owner builder work started since 1 July 2004. If you have not built as an owner builder since then leave this part blank.

#### **Part 5 - Questionnaire**

- A checklist of important questions to determine whether you are eligible to be an owner builder.
- Circle the appropriate answer. Note that if you answer 'no' to any questions you are not eligible to be an owner builder.
- If you have details of appropriate insurance policies please provide them.

#### **Part 6 - Key Personnel**

List any key tradespersons you intend to use for your project. If not known at this stage write "not known".

## **Part 7 – Sign the Owner Builder Statement**

A signed statement is required from each land owner that they are aware of their obligations as an owner builder. If there are more than two land owners please attach a separate signed sheet. Note there are penalties for providing false or misleading information under the *Building Act 2000*.

## **Personal Information Protection Statement**

Information provided by applicants on the Form is collected by the Director of Building Control for the primary purpose of registration of owner builders. Basic personal information such as date of birth is collected to identify those individuals who have built. It is used and maintained in accordance with the *Personal Information Protection Act 2004*.

## **PART 5 Owner Builder Registration Process**

The Director of Building Control must verify the eligibility of most owner builders before a building surveyor can issue a Certificate of Likely Compliance. This is done at an early stage in the building process, before applying for a building permit.

### **Why were these changes made?**

- A registration process has the advantage of allowing land owners to determine their eligibility to be owner builders before committing themselves to contracts or other legal and financial obligations.
- The registration process ensures that people who do not fit the legal requirements to be an owner builder are identified before they apply for a building permit or commence construction.

### **Steps in the Owner Builder Registration process**

1. Develop your plans with your architect or building designer and decide whether you want to become an owner builder. This Owner Builder Kit provides information about your responsibilities as an owner-builder.
2. Take your completed plans to a building surveyor and advise them that you intend to be an owner builder. You will need to complete an Owner Builder Declaration (Form 34) and give a copy of it to your building surveyor. A copy of the form is attached at the rear of this Kit.
3. Ask your building surveyor to determine if you need to seek confirmation from the Director of Building Control that you are eligible to act as an owner builder. This service is free. Once confirmed, the building surveyor will issue you with a Certificate of Likely Compliance that has your owner builder registration number written on it.
4. Apply for a building permit from your local council Permit Authority. You will need to include all design documents, a completed Owner Builder Declaration (Form 34) and the Certificate of Likely Compliance with your application for a building permit.

When applying for a *Building Permit* copies of the following documents are required before the permit can be issued to an owner builder:

- the design documents; *and*
- the *Certificate of Likely Compliance* complete with Owner Builders Registration Number; *and*

- the completed and signed *Owner Builder Declaration* (Form 34).

### **What type of owner builder work needs Registration?**

If an owner builder intends to carry out any domestic or commercial building work (Classes 1 – 9 of the Building Code of Australia classification system) that requires a building permit and exceeds \$5,000, then that owner builder *needs to be registered*. This work includes alterations or extensions to a building. Their building surveyor *must* apply to the Director for a registration number.

### **What types of owner builder work are exempt from Registration by the Director?**

1. Owner builder work that does *not need a building permit* from the council;
2. Owner builder work (cost of labour and materials) *is \$5,000 or less*;
3. Owner builder work on any *Class 10 buildings* or structures (e.g. non habitable buildings such as garages, carports, sheds etc.)

**Note** that even if the work is *exempt* from registration the owner builders still need to sign the Owner Builder Declaration (Form 34) and provide it to the Permit Authority when applying for a building permit.

### **How is an owner builder's eligibility assessed?**

The assessment criteria are ownership or proof of purchase of the land to be built on and the applicant must not have already built two buildings as an owner builder (except for any Class 10 buildings) since 1 July 2004.

### **Who handles the Registration application process?**

Your building surveyor will manage this administrative process and they will seek an owner builder registration number on your behalf. Do not send any documents directly to the Director of Building Control.

### **Which documents need to be provided to the building surveyor?**

1. A copy of the **Certificate of Title** (naming the land owner(s); (if the land is held in a *maiden name* please provide a copy of your marriage certificate);
2. A signed **contract of purchase** of land (if you are buying the land you will build on);
3. A copy of the **Owner Builder Declaration** (Form 34) signed by all land owners applying to be an owner builder.

### **What is the outcome of Registration?**

- The Director is required to give his report to the building surveyor within 14 days. If all required information is provided and is accurate a response is made as soon as practicable.
- If the owner(s) are confirmed as eligible to be owner builder(s) the building surveyor will issue the Certificate of Likely Compliance with the Director's Owner Builder Registration Number included.
- The details of all owner builders who receive a registration number will be entered on a Register maintained by the Director and used for checking that they do not exceed the permitted number of buildings that an owner builder is entitled to construct in the ten-year period.

## **PART 6 Steps in the Process of Building**

### **Planning permit application**

Check with the local council for Planning Permit requirements. You may be required to apply for a Planning Permit (sometimes called a Development Application) under the council's Planning Scheme. This is different from a building permit and is concerned with permitted building uses within a municipality and local restrictions that may be applied to position, height colours and other building features. It is important that you take this step early in the process, as approvals may take some time and may affect the details of the design of your building. If you use the services of an architect or building designer, they should advise you on planning matters and prepare appropriate documentation for a planning application on your behalf.

### **Detail design documentation**

Design that has been done for a planning application will normally be usable for a building permit application, although it may have considerably more technical detail added for this step. If you use the services of an architect or building designer, it is unlikely but not impossible that planning conditions may result in major change to the design, but it is more often the case that a single set of documents are submitted to cover the requirements of all approvals that must be applied for, including planning, building and plumbing permits.

### **Building design assessment and Certificate of Likely Compliance**

Before you can apply for a building permit, it will be necessary to have the design assessed by an accredited building surveyor to ensure compliance with the *Building Act 2000*. This includes assessment against the performance requirements of the Building Code of Australia (BCA). If you intend to be an owner builder, the building surveyor cannot issue the Certificate of Likely Compliance until the Director of Building Control has confirmed that you are eligible to act as an owner builder and has issued the building surveyor with an owner builder registration number for use on all your applications.

### **Building permit application**

Once you have received the Certificate of Likely Compliance from the building surveyor you can proceed with your application for a building permit. You will be required to submit multiple copies of various documents which are detailed in the *Director's Specified List*, or on information available from your building surveyor or local council (see also page 31).

### **Plumbing and Special Plumbing Permit Applications**

You will normally make these applications at the same time as the building permit application. A plumbing permit is required for the installation of plumbing and drainage, and the special plumbing permit relates to onsite waste water management systems such as septic tanks and any trade wastes.

### **Building Start Work Notice**

As an owner builder, once you have received all relevant permits, it is your responsibility to notify your building surveyor when you start work on the site. This is done by means of Approved Form 39, the Building Start Work Notice. The building surveyor will send a copy of this notice to the Director of Building Control so that records of your owner builder activities can be verified on the database. (Forms are available on WST website: [www.wst.tas.gov.au/building](http://www.wst.tas.gov.au/building) )

## Staged inspections

Your building surveyor will carry out staged inspections of the building work as notified on the building permit. It is your responsibility to inform the building surveyor when you are ready for these to take place. The building surveyor has the power to request that defective work is removed and replaced.

## Occupancy Permit and final inspection

When your building is suitable for occupancy, the building surveyor may provide you with an Occupancy Permit. You may not occupy the building before this Permit is issued. Once the building is completely finished, the building surveyor will issue a Certificate of Final Inspection, of which a copy is sent to the Permit Authority, which in turn will provide you with a Certificate of Completion.

## Schedule of Maintenance – essential safety and health features & measures

If your building is in the range of Class 1b to Class 9 (commercial buildings) the building surveyor will provide you with a Schedule of Maintenance of Essential Safety and Health Features and Measures. It is your responsibility to maintain these features according to the schedule and to display an annual maintenance statement.

## Design by an owner builder

The Building Act allows an owner builder to do his or her own design work. This means that they have personal responsibility for the production of the design documentation and making the design decisions in accordance with the Building Code of Australia and the relevant Australian Standards.

*However* architectural building design is a technical speciality and this means that only owner builders with the appropriate technical skills will be able to do their own design. Inadequate design or documentation will not be accepted by the building surveyor and a Certificate of Likely Compliance will not be granted.

## Duties of a designer

The *Building Act 2000* sets out the duties of a designer: -

Duties of designers

**13.** *A designer is to ensure that –*

**(a)** *he or she acts only within the area of his or her competence; and*

**(b)** *so far as is reasonably practicable –*

**(i)** *the design of the building or plumbing work is in accordance with the standards and requirements of this Act; and*

**(ii)** *the documentation relating to the design includes sufficient information for the assessment of the work in accordance with this Act; and*

**(iii)** *the documentation relating to the design is sufficiently detailed for a builder or a plumber to carry out the work in accordance with the documents and this Act.*

All designs must be in accordance with Building Code of Australia (BCA). The BCA covers classification, structural aspects, lighting and ventilation, fire safety, sanitary facilities, energy efficiency requirements etc. It is a complex technical performance based document that requires a high level of technical expertise to interpret.

## **Standards of building work**

The standard controlling the detail of design and building construction in all States and Territories is the BCA. It addresses the technical provisions for the design and construction of buildings and structures. It is produced in two volumes:

- Volume 1 (commercial buildings), and
- Volume 2 (domestic buildings).

There is a Guide to Volume 1 of the BCA and Volume 2 has some guidance notes within.

The BCA covers issues such as:

- structure;
- fire resistance;
- access and egress;
- services and equipment;
- health and amenity in buildings;
- energy efficiency.

The *Building Act 2000* adopts the BCA as the technical standard that applies to all building work in Tasmania. The Commonwealth's *Disability Discrimination Act 1992* may also have an influence on the design and construction outcomes in certain buildings.

## **Questions regarding the BCA**

- If a query relates to clarifying a provision of the BCA, look up the BCA Guide for Volume 1;
- If a query relates to a project specific problem, talk to your building surveyor or the Permit Authority;
- If the query is about how to interpret a provision of the BCA, talk to a Building Surveyor or make an enquiry to the ABCB.

## **Buying a copy of the BCA**

Copies of the BCA and the Guide to the BCA (printed, compact disc or on-line) can be ordered via the Australian Building Codes Board On-Line Shop at this web address: [www.abcb.gov.au](http://www.abcb.gov.au) or from Canprint Communications:

Ph 1300 857 522, Email: [bca@abcb.gov.au](mailto:bca@abcb.gov.au)

## **Viewing the BCA**

Copies of the BCA are available at chief council offices in all municipalities and at State Library of Tasmania reference libraries in every Tasmanian city.

## **Design and layout, the method of construction, fittings and finish**

A house plan properly drafted provides a full account of the work to be performed, so a correctly detailed plan saves disputes and unnecessary direction, supervision and verbal instructions to contractors or tradespeople. An accredited architect or building designer can help to bring together a design to suit your budget.

## **Energy Efficiency**

Mandatory laws on energy efficiency apply to all houses, commercial and industrial buildings, including offices, shops, hotels, warehouses, factories, schools and apartments. As these are minimum provisions there is still considerable scope for individuals to have a home designed and built incorporating design features that will exceed the minimum energy efficiency standards required. A lot of considerations that make a home more energy efficient do not add to the building costs at all if they are incorporated into the design.

## **Other design considerations**

The final design must suit the site on which it is to be built. All building related decisions affect the cost of a home. Some other factors to consider include:

- positioning and orientation of building for maximum solar benefit;
- effect of the land contour on floors - split level, suspended or concrete slab on ground; (excessive slope often means higher building costs);
- the various material and construction alternatives;
- compliance with the local planning scheme boundary setback limits;
- general compliance with the local planning scheme;
- resale prospects – it is important not to over-capitalise or under-capitalise for the area, as the existing neighbourhood usually dictates price range.

Do not breach copyright by plagiarism. Plans prepared by architects, building designers or builders will be copyright. A breach of copyright may also occur if copying a certain percentage of a plan. Some plans are also sold for individual use only.

## **Do it yourself design or hire a professional?**

If hiring a designer there are professional associations that can provide names of members (for example the Royal Australian Institute of Architects Tasmanian Chapter or the Building Designers Association of Tasmania).

The issues raised above are all good reasons for having your plans drawn up by an Accredited Building Practitioner in the categories of Architect, or Building Designer.

## **Engagement of an architect or a building designer**

An accredited Architect or Building Designer will offer a design and documentation service for a fee. The documents should normally contain drawings and specifications suitable for all steps from permit applications to site construction. In addition the architect or designer can be engaged to carry out a contract administration during the execution of the work and advise on which quotes to accept. They may also advise the client on when progress payments are due and take care of running the project (but not perform the role of builder). This would be less likely to occur in an owner built project.

## **Planning Considerations**

### **Do you need planning approval?**

Before any work starts, and before applications for building or plumbing permits are made, you may need to obtain a **Planning Permit or Development Approval** from your council to comply with the local planning scheme. This may include proposed work on residential buildings. Requirements of planning schemes may vary from one municipality to another

and within different areas of a municipality. Some municipalities have precincts that have more stringent requirements. For example exterior painting of a house in Battery Point requires planning approval from the Hobart City Council.

### **Site planning requirements**

The building site must have road access and services such as water, electricity and sewerage or approved waste water management on the site. It is advisable to contact the council planning and building departments before the plans are prepared.

### **Differences between the Building Permit and the Planning Permit processes**

- The Planning Permit process regulates the use and development of land by assessing proposals against council planning schemes and the State's planning legislation. It particularly examines the impact of the proposed development or use on the surrounding area, whereas Building Permits focus on the proposed structure and its safety, health and amenity.
- The Building Permit process regulates the construction, alteration and demolition of buildings by assessing proposed buildings and structures and alteration work against the requirements of the Building Code of Australia (BCA).

### **Land subject to flooding**

Flood damage to your home or premises can be devastating. If land is prone to flooding, the design of a proposed building will have to comply with the *Building Regulations 2004* (all habitable rooms of a building must be a certain height above the highest known flood level). To find out the flooding risk in your area, you may need to ask a number of people, as it is usually not part of the standard information that you get when buying land. Check with the following sources:

- The *Building Regulations 2004*, reg. 12, lists river basins for which flood maps have been made;
- Council planning schemes may tell you if you live in a flood prone area;
- Council staff or elected members may have local knowledge of when flooding may have occurred in the past;
- Neighbours or people who live in the area;
- Local newspapers;
- Insurance companies who do business in the area.

### **Soil Classification, foundations, and footing design**

Many homes in Australia suffer from structural problems resulting from poor soil conditions. These problems could have been prevented had the building designer and the builder undertaken a thorough site investigation and subsequent site preparation prior to building. Extra costs of building on problem sites can be minimised by proper design once a site classification has been performed and taken into consideration.

Reactive soil movement can cause subsidence or heave. Reactive clay soils shrink when they dry out and expand when wet. Typical damage includes diagonal cracking of brickwork, doors and windows that won't open. Proper compaction of structural earth fill is required to prevent subsequent settlement and damage to a building, paths and driveways. In some localities landslips or former mining activities can also cause

subsidence. Soil tests may also be used to prepare a site and soil evaluation in unsewered areas to determine the type of onsite waste-water management system.

If building work includes footings, building surveyors usually require a site soil test to be carried out prior to issuing a Certificate of Likely Compliance. Tests will establish whether the site can be built on, the type of footing or slab needed, and the number of storeys permitted.

Soil tests for foundation classification in accordance with Australian Standard AS2870 should be carried out by an:

- (a) Accredited Soil Scientist; or an
- (b) Engineering Geologist; or a
- (c) Geo-technical engineer.

It is recommended that builders, homeowners and building professionals refer to a CSIRO pamphlet, '*A Builders Guide to Preventing Damage to Dwellings, Part 1, Site Investigation and Preparation.*' Building Technology File No. 19, on their website [www.publish.csiro.au](http://www.publish.csiro.au) (Use "BTF 19" as your search phrase).

### **Protection of adjoining property**

If building work (including an excavation) is to be performed close to the boundaries of an adjoining property then an owner builder may be required to carry out protection work in respect of the adjoining property. This is so that the adjoining property is not affected by the building work. The relevant building surveyor will determine if this is necessary and if so, before commencing any protection work, the owner of the adjoining property will receive notice of the proposed building work.

## **The Tasmanian Heritage Register - restrictions on building work on heritage buildings**

### **What is the Tasmanian Heritage Register?**

The Tasmanian Heritage Register is a register of those places in Tasmania that are of historic cultural heritage significance. These places are important to Tasmania and Tasmanians because of their contribution to our culture and society. They are also important as part of the cultural fabric of the State that is so much a part of our tourism industry. The Tasmanian Heritage Council maintains the Register under the *Historic Cultural Heritage Act 1995*.

### **Does the *Historic Cultural Heritage Act* restrict an owner's use of the registered property?**

It will not restrict it in any way if the use does not require modifications to the significant elements of the property.

### **What controls does it impose on building work?**

Being on the Heritage Register will have little or no effect on most property owners. All that being on the Register means is that the issue of the significance of the place will be considered when the time comes for any modifications to be made to the property. This will be considered as part of any normal building or development applications that are lodged with the local council. When thinking of doing some work on a registered property, it is advised that you consider contacting one of the Tasmanian Heritage Council Heritage Professionals for free on-site advice on heritage and conservation issues.

## **Do I need approval to make alterations and repairs to heritage buildings?**

Many people mistakenly assume that they can undertake alterations and repairs to buildings on the Heritage Register, without obtaining the relevant permission. A planning permit (from your local council) is required for any proposed “development” which includes external alteration or decoration, but not general maintenance. There are very few exemptions. If your building is included in the heritage register of the local council’s planning scheme, your application for a permit will be “notified” (advertised) before the council reaches its decision whether to grant or refuse the planning permit. Council will assess the application against the provisions of the relevant planning scheme, so it is useful to be familiar with the scheme’s requirements before you begin. The council may refuse your application or may set conditions with which you must comply. You may appeal the council’s decision to the Resource Management and Planning Appeal Tribunal.

You must also obtain the approval of the Tasmanian Heritage Council before undertaking work (including internal work) on a place which is on the Tasmanian Heritage Register. This is sought by lodging a “works application” at your local council, which is then passed onto the Heritage Council for assessment. In many cases a building permit will also be required. Council staff will answer any questions regarding the need for a planning permit, heritage approval and a building permit.

## **What happens if an owner applies to do work and it is not approved?**

The owner may appeal to the Resource Management and Planning Appeal Tribunal. It is rare that the Heritage Council refuses an application. Sometimes it imposes conditions of approval designed to preserve the heritage values of the place. The Heritage Council has had much success with property owners who sought its advice prior to lodging a works application.

## **Are there penalties if an owner does not comply by the Heritage Act?**

The penalties for unauthorised or illegal work are severe, however the Heritage Council would like to be able to resolve issues that are causing real problems to owners by way of discussion and mediation, rather than by conflict and objection. For further information relating to buildings on the Tasmanian Heritage Register see contact details below:

Secretariat,

Tasmanian Heritage Council:

Level 6, 134 Macquarie Street, Hobart

**Telephone:** 6233 2037

**Email**            [enquiries@heritage.tas.gov.au](mailto:enquiries@heritage.tas.gov.au). **Website:**        [www.tasheritage.tas.gov.au](http://www.tasheritage.tas.gov.au)

## **PART 7 The Building Permit Process**

### **Application to Build**

**Before starting any work, contact a building surveyor or your local council Permit Authority for further information about what permits or requirements may be needed for your proposed owner builder project.**

### **Choosing and appointing a building surveyor**

Private certification of building plans is permitted under *the Building Act 2000*. This allows you to use a private building surveyor or a council employed building surveyor to assess your building plans and other documents and issue the Certificate of Likely Compliance. The same building surveyor will also carry out any required building inspections. Once appointed, the building surveyor has a duty to carry out all required building surveying functions relating to that project and they cannot be removed or dismissed by their client.

A building surveyor is not to be confused with a Registered Land Surveyor who makes plans for subdivisions and other land surveying work.

### **The roles of a building surveyor include:**

- seeking confirmation that a person is eligible to act as an owner builder;
- checking to see that the design is in accordance with the *Building Act 2000* and the Building Code of Australia;
- ensuring all required documents are submitted and requesting appropriate additional information;
- issuing a Certificate of Likely Compliance;
- notifying the Director of Building Control of the start of work of an owner builder under section 87 (4) of the Building Act;
- inspecting the works at mandatory stages, issuing occupancy permits and certificates of final inspection. An Occupancy Permit indicates that the building is suitable for occupancy. A building must not be occupied until an occupancy permit is issued. A Completion Certificate is issued by the Permit Authority when it receives the Certificate of Final Inspection from the building surveyor.

### **What is a Certificate of Likely Compliance?**

Before making an application for a **building permit** the initial step is for the owner to engage a building surveyor to assess the design and to issue a Certificate of Likely Compliance certifying that the proposed works are likely to comply with the provisions of the Building Act. In the case of an owner builder project, the building surveyor must request confirmation from the Director of Building Control that the applicant is eligible to act as an owner builder and receive an owner builder registration number before issuing a Certificate of Likely Compliance.

The building surveyor will consider the following matters (and there may be others) before issuing a Certificate of Likely Compliance:

- is the proposed work, when completed, likely to comply with the Act, Regulations and the Building Code of Australia?
- is the building capable of receiving adequate levels of light and ventilation?

- is the building properly provided with sanitary facilities?
- have adequate fire protection measures been put in place?
- are the building's features safe for users?

The Building Surveyor may require a 'Certificate of Others' to be provided by experts such as an engineer where some aspect of the design requires specialist knowledge; examples include structural design calculations, or an assessment of the energy efficiency of the design.

### **Application for permits to the Permit Authority**

After the building surveyor issues a Certificate of Likely Compliance an application for a building permit can be made to the Permit Authority. The role of the Permit Authority is to enquire into certain matters before a building permit is issued, such as road access, water, sewage disposal and plumbing permits. The Permit Authority will also assess the proposal in terms of its compliance with any relevant planning conditions and any other relevant legislation.

- You will need to fill in an application for a Building Permit on Approved Form No. 2 and provide:
  - 3 copies of the Certificate of Likely Compliance and 3 copies of all documents referred to on that certificate;
  - 3 copies of the Owner Builder Declaration (Form 34), is to be signed by the owner builder(s) as a declaration under the *Building Act 2000*.
- For the documents required to accompany an application for a Plumbing Permit or Special Plumbing Permit, Refer to Schedule 2 of the Director's Specified List available on the Workplaces Standards Tasmania website [www.wst.tas.gov.au/building](http://www.wst.tas.gov.au/building)
- Provide plan copies.
- Permit Application Form(s) to be signed by the applicant.
- Permit Authority building and/or plumbing fees are assessed on the application and paid.
- State Government training and building levies must also be paid before a building permit can be issued.

### **Plumbing Permit compliance process**

A building surveyor can deal with the technical building issues. If however your building proposal also requires a Plumbing Permit, you will need to refer directly to the Permit Authority as it deals with all plumbing matters under the *Building Act 2000* and *Plumbing Regulations 2004*. All work must comply with the standards of plumbing work set out in the Tasmanian Plumbing Code (TPC). If the building is in a rural (e.g. non-sewered area) you may also need a Special Plumbing Permit if an on-site wastewater management system is to be installed (including a septic tank or a 'packaged' treatment plant). Many councils also have by-laws in relation to connecting to sewers and maintenance of on-site wastewater management systems.

The Plumbing Permit process is concerned with the following issues:

- is the proposed plumbing work likely to comply with the Act, Regulations and the Tasmanian Plumbing Code?

- is sanitary drainage capable of being drained to a sewerage system or on-site wastewater management system?
- is an adequate hot and cold water supply proposed?
- are the buildings and their surroundings provided with an adequate stormwater installation?
- is there an adequate fire-fighting water supply?

### **Time periods for consideration of permit applications**

- The period in which a building surveyor has to grant a Certificate of Likely Compliance is within 21 days of receiving the request for a certificate or a period agreed between the applicant and the building surveyor.
- The Permit Authority must grant a permit within 7 days of receiving an application for a Building Permit, or 14 days after receiving an application for a Plumbing Permit; or else a period agreed between the applicant and the Permit Authority.
- For all time periods refer to the Director's Specified List available on the WST website [www.wst.tas.gov.au/building](http://www.wst.tas.gov.au/building)

### **If my Building Permit application is refused, can I appeal?**

Under Part 12, Division 2 of the *Building Act 2000* you can appeal against a refusal to issue a permit (or the non issue of a permit) to the Building Appeal Board, an independent and impartial tribunal. It considers cases where:

- a person appeals against the failure to grant a permit, or
- a condition of the permit; or
- appeals relating to occupancy or temporary occupancy;
- appeals relating to protection work;
- appeals under the General Fire Regulations 2000.

More information about the Board and its functions is available on the WST website [www.wst.tas.gov.au/building](http://www.wst.tas.gov.au/building) or contact the Registrar of the Board at Workplace Standards Tasmania – phone 1300 366 322 or (03) 6233 7657.

### **What fees will I have to pay to obtain Building and Plumbing Permits?**

- Building surveyors (private or council employed) charge market rate fees for their assessment and certification services.
- The Permit Authority (council) also charges fees to issue building permits or plumbing permits and the issuing of certificates.
- In addition to the building fees, the Permit Authority will also collect on behalf of the State Government a Building Construction Industry Training Levy and a Building Permit Levy.

### **Training Levy**

The Training levy was introduced in 1991 under the *Building and Construction Industry Training Fund Act 1990*. This levy is charged on any building project over \$12,000 and is calculated at \$2.00 per \$1000 of the estimated cost of the building, as indicated in the contract or as on the building application form. It is usually paid to the Permit Authority

when lodging the building application but can also be paid directly to the Tasmanian Building and Construction and Industry Training Board (TBCITB).

### **Building Permit Levy**

The *Building Act 2000* provides for a Building Levy to be collected by the Permit Authority (council) for building work and related plumbing work, the estimated total cost of which is \$12,000 or more (the contract cost, including materials and labour). It is calculated at \$1.00 per \$1000 of the cost of the work. The levy must be paid before a building permit is issued. The levy is paid into a special building fund and used solely to develop a better regulatory environment for Tasmania's building industry (it paid for this Owner Builder Kit).

### **Starting building or plumbing work on the site**

The applicant for a building permit is **not allowed** to start any works on a site until they have received their Building Permit *and* notified their building surveyor that they are about to start work. There are heavy penalties for starting work before you are allowed.

### **Standards of building work**

The standard controlling the detail of building construction is the Building Code of Australia (BCA). The BCA addresses the technical provisions for the design and construction of buildings and structures. All work must be carried out in accordance with the BCA. The BCA is performance based and offers "Deemed to Satisfy" solutions to the performance requirements. Alternative solutions can be proposed but must be proved to satisfy the performance requirements.

The *Building Act 2000* adopts the BCA as the standards that apply to all building work in Tasmania. The Commonwealth's *Disability Discrimination Act 1992* may also have an influence on the design and construction outcomes in certain buildings to enable disabled access. As an owner builder you will need to have the knowledge, technical and physical skills to supervise and carry out the construction of the building.

### **Inspections of Building Work and Plumbing Work**

Building work may involve a series of inspections by the building surveyor or their inspector at various stages of construction to determine if it is being constructed correctly and in accordance with the permit documents. The onus is on the owner builder to notify the building surveyors that a notifiable stage has been reached. It is the building surveyor's discretion to inspect. Typical inspection notification stages are *prior to*:

- Covering in of foundations;
- Pouring structural concrete, including footings and floor slabs construction;
- Cladding or building in the structural framework;
- Completion of the building work.

**The Permit Authority inspects plumbing work** after notification by the plumber.

Typical inspection notification stages prescribed for plumbing work are *prior to*:

- Covering in of plumbing work;
- Commissioning work that requires a special plumbing permit;
- Stormwater and sewerage drains;
- Final inspection on completion.

## **PART 8 Hiring Subcontractors and Tradespersons**

### **Accreditation of Building Practitioners under the *Building Act 2000*.**

The *Building Act 2000* requires that the design, construction (or demolition) and assessment (building surveying) of any building work that requires a building permit *and* is valued over \$5,000, must be carried out by an accredited building practitioner.

The Building Act has introduced a system for the mandatory accreditation and insurance of building practitioners who are:

- **designers** (including architects, building designers, engineers and building services designers) responsible for the design of buildings;
- **building surveyors and assistant building surveyors** responsible for the assessment of design and building work;
- **builders** responsible for the construction (or demolition) of buildings.

### **Benefits of using an Accredited Building Practitioner**

- They have mandatory insurance – e.g. a builder will have Contract Works Insurance; an architect or building designer will have Professional Indemnity Insurance.
- People who are not accredited are probably not insured. There is also no guarantee of their skill level, and there is no recourse to complaints to the Director of Building Control about their misconduct.

**By choosing to be an owner builder, you forego the benefits of using an Accredited Building Practitioner and you are responsible when selecting people to carry out work on your behalf.**

### **How to check the accreditation of a building practitioner**

- Names and the details of all the practitioners who have been accredited are found on Director of Building Control's Register, available on the Building Standards and Regulation website: [www.wst.tas.gov.au/building](http://www.wst.tas.gov.au/building)

### **How to check the licenses of other tradespeople**

- Electrical contractors must be licensed by Electrical Standards and Safety (a division of the Department of Justice). Refer to the section on electrical work on page 44.
- Plumbers or gas fitters must be registered by the Plumbers and Gas-fitters Registration Board. Please refer to the section on plumbing work on page 45.

### **Choosing tradespeople**

There is no occupational licensing of tradespeople in Tasmania (*except* electricians, plumbers, gasfitters and asbestos removalists), so ask for references from owners for whom they have worked. Ask relevant questions such as:

- Do you belong to a building or trade association?
- Do you hold any trade qualifications or licences?
- Can I inspect recent examples of your work?
- Are you familiar with the work that I want done and are you capable of doing the work competently?

- When could you start?
- How long do you think the job will take?
- Can you give us an estimate of the cost of the job?
- What are the terms of payment and at what stage?
- Are you covered by insurance such as Workers Compensation, Public Liability or Income Protection? (Ask for copies of insurance certificates.)

It is advisable to get two or three detailed written quotations for each job or section of the work and ask for quotes in writing. Should the quote be acceptable – ask for three references of completed work available for inspection and a contact for a job currently underway.

### **Hiring tradespersons (sub-contractors)**

Sub-contractors let out their services either by:

- a price or quote for a pre-determined amount of work, which can cover materials and labour necessary for the job;
- or a cost plus deal; a set rate per hour of involvement with or without the materials.

Most tradespeople provide a tendered price or fixed quote, so the owner builder knows the work will cost a fixed sum.

### **Getting quotes**

Obtain at least three quotes from tradespeople, based on exactly the same description of the scope of work. Compare quotes carefully to ensure that each contains details of the same work and materials. Do not always accept the cheapest quote as you need to weigh material content and labour and ability of the contractor to competently fulfil obligations. Examine the quotes carefully to ensure that they cover everything that you want.

### **Co-ordinating sub-contractors**

A building project requires that one person must be in charge of management and coordination and they must have a plan of action. An experienced builder has spent a lifetime perfecting job flow, costing and building site management. By comparison an owner builder may be inexperienced and may make many mistakes. Problems may arise, such as a tradesperson unable to perform a particular task on a scheduled date, materials not delivered on time, bad weather, orders partly filled, and so the schedule must be flexible. A common problem is the lack of support from tradespeople, as they prioritise their workload with established or accredited builders. This is because the builder gives them on-going work, whereas the owner builder project is a one-off job. Selecting tradespersons is a time consuming process as many may not show up to give a quote.

- Select people you feel you may be able to work with.
- Ask what sort of lead time they require.
- Keep in touch to tell them when they are going to be needed (e.g. one month before work starts).
- Make sure materials are on site ready for use when they arrive.
- Be realistic about your expectations of the progress.
- Be wary of paying for a stage too early until satisfied the required work is completed properly.

## Building Contracts with tradespersons

The complexity of building programs requires a carefully detailed contract. Written contracts for all work are essential for both parties to clearly define their rights and responsibilities. The contract spells out the terms of engagement of both parties and will bind the owner builder and their subcontractor or tradesperson on a clear understanding of what exactly their respective responsibilities will be.

Check that the following issues are addressed in the contract:

- contract is in English and legible;
- names and addresses of the owner builder and the contractor are included;
- to tie the plans with the contract they must all be signed, “this is the plan referred to in our Building Contract dated... “
- contract documents include fully detailed plans of the proposed work;
- special details and drawings of items like kitchen cupboards, stair details, wardrobes, etc should also be signed;
- written specifications should detail types of style of finishes, tap ware, doors etc. Include detailed finishes (e.g. number of coats of paint);
- both the owner builder and the contractor must sign;
- the date the contract is made is indicated;
- the start and finish dates are stated. In calculating the finish date provision should be made for types of delay such as inclement weather and non working days. Where there is a reasonable likelihood that the delays may affect the time required to carry out the building work the contractor must state the number of days the contractor has allowed for each type of delay;
- if the start date is unknown, the contract should state;
  - how the start date is to be decided; and
  - the number of days required to finish the work; and
  - that the work will start as soon as possible;
- location of the building or description of the land such as a lot plan number;
- total price and payment provisions are clearly stated, including deposit and progress payments;
- definitions of key terms;
- if the contract includes footing and slabs, the contractor has obtained soil test data or geo-technical information (see the section on page 27 on soil tests);
- any “Variations” (changes made to the work to be done under the contract) whether initiated by the contractor or the owner must be fully detailed in writing, and must be supported by the plans and specifications where these are required for the work. Variations form part of the contract documentation. The contractor should put any variations in writing as soon as possible including the price change, a reasonable estimate of the work, and a reasonable estimate of the delay;
- Prime Cost items and Provisional Sums should appear on separate schedules. If the contract price is subject to change, it should be clearly stated near the contract price and state all the provisions in the contract that allow for the contract price to be paid;
- materials used must be good and suitable for the purpose;
- materials must be new unless otherwise agreed;

- the contractor will comply with all applicable laws, including the building permit and conditions;
- work will be carried out in accordance with all plans and specifications;
- that the contractor will carry out the work in an appropriate and skilful manner;
- a provision that on completion, the home, renovation or extension will be suitable for occupation.

It is essential that you should obtain independent legal advice for further details on contractual matters, or the meaning of specific provisions of a particular contract. In Tasmania there are no “cooling off periods” for building contracts and no building contracts dispute tribunal. Disputes may have to be settled by arbitration or legal action, so it is wise to try to avoid problems before they arise. Standard Contracts are available for purchase from professional bodies and industry associations. There is also an Australian Standard contract.

## **PART 9 Obtaining Finance**

The owner builder must be able to back the cost of their building work and most will need to borrow money. Many first homeowners have high expectations regardless of whether they can afford a large house with all “top of the range” appliances. However owner builders should not over commit to a large mortgage with the constant worry that a rise in interest rates will see them lose their dream home. When approaching your bank or financial institution for a loan to build they will usually require the name of the builder, so as you are going to build it yourself as an owner builder consider the following issues.

- Are you experienced enough to complete the project within budget?
- Is the house able to be sold if you run out of money before completion?

As the financial institution needs security on your home or proposed building project, the answer to these questions will affect the amount that is obtainable from these institutions.

- The more experienced you are, the better chance you have of getting a loan.
- As you wish to build as an owner builder, be warned - most lending institutions will only advance 50% of the value of the home to an owner builder. (If you had engaged an accredited building practitioner you may be able to borrow as much as 95%).

### **Applying for a bank loan**

Financial institutions want to see a clear and realistic proposal and the types of information they may wish to see will include:

- a list of the applicant’s assets (property owned) and their liabilities;
- details of their cost of living;
- the applicant’s ability to make a financial contribution to the project.

Go to the interview prepared with the right information, as the financial institution will want to look at hard facts about the design costs and drawings, detailed cost estimate of the project and verification of the building permit. Lenders claim that major problems encountered with owner builders is the cost blow-out – an underestimation of cost and overestimation of their own funds. The financial body may insist that a fixed percentage of the estimated total cost be set aside to cover unexpected contingencies. Applications are based on merit and funds granted will need to be made available at pre-determined stages of the construction activity.

## Valuations

When you are building your own home organising finance is a complex task and the lender must be able to determine the final value of the completed property. When arranging a valuation, the lender will generally require the following information:

- as an owner builder, an estimate of construction costs, or if using a sub-contractor, a contract, tender or quote; and
- a written schedule of progress payments, to show how much money you will need as you build and works the owner intends to complete for each stage. This will assist the lender in assessing your cash flow;
- council approved plans and specifications and any conditions of approval. The Certificate of Likely Compliance may be also required;
- written details of work that is to be carried out by you as an owner builder, friends, family or subcontractors. This should include all trades. Highlight any works to be carried out at no cost by you or at a discounted rate by you or your family and friends. You will also need to supply a complete costing of works to be subcontracted to qualified tradespeople and copies of written quotes to be provided.

If doing the actual building work yourself, the lender will also require:

- written details of where you intend to buy the building materials, the credit terms available and copies of any trade labour cost quotes already arranged;
- evidence of your savings required to fund construction; a program of the stages when the lender will be requested to release the loan funds.

## Avoid cash-flow pitfalls

- Many owner builders spend what savings they have on the wrong items at the wrong time and when a valuer inspects the property on behalf of a lender, they cannot recommend a further progress payments.
- All lending institutions advance loan funds through progress payments during the course of construction. Generally speaking, four progress payments are made. However, the lender will only advance funds as a percentage against completed work done; i.e. permanent construction improvements. The valuer cannot take into consideration frames and trusses, for example, purchased at a sale, if they are stored in the garage and not erected on the building site.
- The owner builder then has no funds to pay the tradesman to erect those materials and now has a lender that will not advance funds to replenish money already spent, as the value is not in completed fixed work. This creates a cash flow dilemma and a stalemate and all work is stopped on the job while interest is still accruing daily with a monthly interest payment to be made.

## Deposits on building work and Progress Payments

Deposits paid to contractors are regulated by the *Housing Indemnity Act 1992*. The maximum level of deposit that a builder can demand is a deposit of 10% for building work valued at less than \$20,000. Only 3% can be charged for building work valued at more than \$20,000. Progress payments should not exceed the value of the work performed.

## Progress payments

If using a sub-contractor or tradespersons to do works, avoid making payments in full until you are satisfied that the job is complete. If work is poor or incomplete you may have trouble getting your money back. The contract should have a schedule specifying the payments so do not pay any money upfront other than deposits listed in the contract. Payment is made when that stage is actually completed in full, and if applicable, passed in full by the building surveyor. An owner builder is, however, responsible for paying sub-contractors without delay when their work is completed.

## Taxation and Superannuation Guarantee for employees

As an employer, the owner builder may be liable for payments of tax and superannuation for the wages paid to employees and subcontractors during the building project. To clarify your obligations for tax, please contact the Australian Taxation Office or visit their website [www.ato.gov.au](http://www.ato.gov.au)

## PART 10 Insurance

Failure to obtain adequate insurance cover could jeopardise your owner builder project;

- Insurance is a necessary safeguard for you and for the loan institution that is backing the project with finance. If finance is being obtained through a lending institution, they will require evidence of a Construction and Public Liability Policy before they will release any funds;
- If you decide not to insure, the risk of potential loss is much greater, than for example, not having car insurance. A substantial loss on uninsured building works would cause financial ruin to most owner builders.

## Types of insurance relevant to owner builders

You will be asked to provide details on the Owner Builder Declaration (Form 34) that you have the appropriate Public Liability and Workers Compensation Insurance. You will also be required to provide the name of the insurance provider, the policy number, and the expiry date, if this information is available.

### Public liability Insurance

- Public Liability Insurance covers third party injury and property damage that occurs during the period of the policy. Building sites are dangerous places. There is also a danger to neighbours or people using the street while materials are being delivered.
- Public Liability Insurance is to protect an owner builder against claims from members of the public for damages. If the owner builder does not have public liability insurance they may face the risk of common law negligence claims for damages or personal injury. Note that many household insurance products do not cater for new building work – so check with your insurer before starting building.

### Workers Compensation

- Workers Compensation Insurance *is required by law* if an owner builder employs “workers” within the definition of the *Workers Rehabilitation and Compensation Act 1988*. Under section 97 of that Act, owner builders are treated in law the same as any

other “employer” including accredited builders. Workers can include labourers on site who are paid wages.

- Owner builders will need to closely examine the proposed relationship with the persons working on their building project to decide whether it is one of a contract for services or employment. If in doubt consult an insurance expert.
- Owner builders who are building their own homes should take out a workers compensation insurance policy for the building activity. Any sub-contractors employed by an owner builder may be deemed to be a worker of that owner builder. This could include builders, labourers and some sub-contractors. To ensure that the owner builder and all their workers are protected, a workers compensation insurance policy should be taken out. Home owners doing extensions or renovations may find that their normal domestic workers compensation policy does not cover building work.
- Where tradespersons or contractors are employed to work on the property, such as plumbers, electricians and builders, you should obtain from each one a confirmation of what their insurance covers prior to commencement on site. This could be a certificate of currency from an insurance company, or a photocopy of the policy itself.
- Note that for renovations of existing domestic buildings, the homeowner’s house and contents insurance may neither cover the people working on the site, nor the new building work. Check with your insurer to see if you are covered. You are advised to discuss this with your insurance advisor. See also the section on Workplace Health and Safety on page 42.

### **Construction Insurance (also called Contract Works Insurance)**

A builder’s contract works policy covers the main risks during construction: malicious damage, theft, vandalism, fire, storm, wind and water damage. Some policies also include the costs of demolition of damaged work and professional fees in the event of a major claim. Be aware that many domestic house and contents insurance policies do not cover building work and will only apply once the work is finished and the building surveyor and the Permit Authority have issued the necessary certificates. This is particularly important if an owner builder is making an alteration to an existing building, as some policies may not cover the existing building during the construction period either.

### **Other types of insurance**

- Key person insurance – the policy for sickness or death that will guarantee repayment of the loan should you meet with illness or accident.
- A policy to cover the whole loan amount to ensure that the project is completed by employing a professional building practitioner to complete the job in case of death or permanent incapacity of the owner builder.

### **Questions to ask**

- What is the minimum coverage of a Public Liability policy? e.g. ‘\$5 million’;
- Is the insured value the owner builder construction price, or the full replacement value in the case of a total loss?
- Does the policy cover demolition costs in the event of major loss?
- Is adjacent property protection available with a contractor’s policy?

- Does the policy cover existing structures on the property? Prior to starting building work you should advise your house and contents insurer, as your existing policy may cover minor renovation projects;
- Does the policy cover the owner builder against negligence claims from contractors or tradesmen killed or severely injured on the work site?
- If works have already commenced, is it still possible to obtain insurance?

## **PART 11 Work in Progress**

### **What are the owner builder's responsibilities during the construction period?**

An owner builder must comply with the building permit and any conditions forming part of the building permit. In particular:

- building work must be *commenced* within 12 months of the issue of the building permit.
- a *Certificate of Completion* of building work is to be obtained from the Permit Authority within 24 months of the issue of the building permit.

A person's successors in title are also bound by any conditions relating to a building permit. Any changes to the approved plan during the construction period may require the consent of the building surveyor and the Permit Authority. Stages of works specified by the building surveyor will require notification for inspection prior to that work being performed. It is also imperative that co-ordination of the different trades and companies and authorities such as electrical supply, gas, water supply and sewerage, telecommunications and fire services, is clear to all parties during construction to reduce the need to open up completed construction.

### **Do not create nuisances**

A person must not allow dust, fumes, noise, mud, smoke, sewage or concentrations of water that occur in the course of building work to become a nuisance, or a public health risk. The council can issue an infringement notice and fine. Refer to the *Building Regulations 2004*, regulation 25.

During demolition action must be taken to prevent building material and debris falling onto or into a public place or adjacent land or onto a road or driveway. Refer to the *Building Regulations 2004*, regulation 28.

Noise has become an increasingly significant environmental issue. The Environmental Management and Pollution Control Act and regulations regulate noise and infringements can result in a fine.

### **Removal of asbestos during demolition or removal of buildings**

It is an offence to remove building materials containing asbestos during the demolition or the removal of a building. Refer to the *Building Regulations 2004*, regulation 27A.

- All reasonably practicable steps must have been taken to identify the presence of asbestos in the building before starting work; and
- That work must be carried out in accordance with the *Workplace Health and Safety Regulations 1998*.

See also the section on page 43 "Hazardous materials encountered during building renovations".

## **PART 12 Workplace Health and Safety**

If you are building, renovating or extending, you must know how occupational health and safety (OHS) legislation will affect your plans. As an owner builder (the 'principal') intending to do work yourself and also engaging independent tradespeople as required, you are responsible for ensuring your sub-contractors comply with minimum safety standards. In effect **you become the accountable person** as you have primary control over your building site ('the workplace') and therefore have the responsibility for health and safety. The provisions of the *Workplace Health and Safety Act 1995* and the *Workplace Health and Safety Regulations 1998* apply to owner builder work.

### **Obligations of owner builders**

Principals and self-employed persons who exercise, or are in a position to exercise management or control over a workplace must ensure that so far as is reasonably practicable, any person at that workplace is safe from injury and risks to health.

A principal must not allow a contractor engaged by the principal or any person engaged by that contractor to carry out work for that principal at their workplace in a manner which the principal believed would place at risk the health and safety of any person.

Under the *Workplace Health and Safety Act 1995*, a self-employed person means a person who works for gain or rewards other than as an employee, regardless of whether he or she employs any other person.

### **Duty of care**

A duty of care is a legal responsibility. The general duty of care provisions are found in the *Workplace Health and Safety Act 1995*. General duties of care are central to the legislation, requiring all workplace participants to take practicable steps to ensure health and safety measures are met. Each person under a duty must satisfy it, even if other persons also have a similar duty. A person, who has control of a workplace, the access or egress to it, or the plant or substances in that workplace, must take all reasonably practicable steps to ensure the workplace is safe and that the plant or substances have no adverse effects on the health and safety of that workplace.

If you hire labour for wages or reward (as an employer) you must also be familiar with the safety requirements of the particular work being done (for example rules for working at heights, scaffolding etc). You must take all reasonable steps to ensure compliance with minimum safety standards. Under the *Workplace Health and Safety Act 1995*, the employer's duty of care also extends to the work of any contractors or subcontractors and the employees of those contractors or subcontractors engaged by the employer. This duty of care does not diminish the duty of care imposed on the contractor or subcontractor, who is also an employer.

### **Protecting non-employees including family members**

Work activity involving hazardous substances has the potential to harm members of an employee's family. Health and safety policies and procedures must ensure that employees are not bringing home hazardous substances from the workplace, such as contaminated dust or fibres on their work clothes. At workplaces where the family lives on site, for example, a house under construction by an owner builder, every owner builder has a duty to ensure that children, other family members and visitors are not injured or harmed by work activity and hazards that may be present.

Where hazardous substances such as paint stripper, solvents and rust removers, are stored in a work vehicle that may be parked at the family home, procedures should ensure that children do not have access to the substances. The system should include the provision of information on substances which may be harmful, proper storage in the vehicle to prevent spillage, the provision of locks to ensure that substances are secure, training on action to be taken in an emergency and regular checks that safe work practices are followed. The same applies to plant such as power tools or hazardous substances that are taken to or left at the family home at the end of each working day.

A pamphlet ***Workplace Health and Safety on Residential Housing Projects*** (reference GB131) is available from Workplace Standards Tasmania (call the Workplace Standards Tasmania Helpline 1300 366 322). It describes the safety standards that apply to your housing project and who is responsible for workplace health and safety, whether you are an owner builder or a building contractor. It also tells what happens where non-compliance exists and guides you to the relevant standards.

Another Workplace Standards Tasmania pamphlet, ***Construction Industry: a Guide to Occupational Health and Safety*** (reference GB134) provides information and guidance on workplace health and safety in the construction industry.

## **Hazardous materials encountered during building renovations**

### **Lead in old paint finishes**

Purchasers of houses built before the 1970s who are considering owner builder renovations must be aware that many old paints contained lead and sanding and cutting will create lead paint dust that may affect members of their family, neighbours, builders and labourers. Lead is toxic and may affect the brain development of children. Paint test kits are available for purchase from leading paint stores.

### **Asbestos**

Many houses built before 1982 contain building products containing some asbestos. Exposure to asbestos dust can cause mesothelioma (fatal lung cancer) and asbestosis (a serious and painful lung disease). Many owner builders making repairs, renovation or maintenance are unknowingly disturbing asbestos. Millions of fibres are released into the home – an unacceptable risk to the owner builder, their families and subcontractors. Asbestos products found around the home can include:

- flat or corrugated sheeting (“fibro” or asbestos cement (AC) sheets) with asbestos fibres embedded in the hardened cement matrix;
- flexible building boards;
- some types of imitation brick exterior cladding;
- roof shingles;
- lagging around heater flue pipes.

During any work that may release asbestos dust an owner builder must undertake:

- hazard identification;
- control measures;
- safe work measures;

- competent trained persons to do the work – except for small quantities of sheet asbestos, it is compulsory for all other asbestos removal to be carried out by a licensed asbestos removalist.

A person who has control of a building, or structure containing asbestos has a duty of care towards any person who may enter that building, or structure. Division 9 of the *Workplace Health and Safety Regulations 1998* details the steps to be taken in relation to identification, risk assessment and duties:

- an asbestos management plan should be implemented;
- a building register should be created and regularly updated to record the location and condition of asbestos and every time work is done on it;
- the presence of asbestos and the risk in each workplace must be assessed by a qualified occupational health professional. If the asbestos is in good condition, it should generally be left undisturbed, but if it is damaged or deteriorating it may need to be removed. By law, this can only be done by a licensed asbestos removalist, not by owner builders.
- Material containing asbestos should be labelled according to Australian Standards – AS 1216 (1995): Class labels for Dangerous Goods, and warning signs should comply with AS 1319 (1994): Safety signs for the occupational environment.
- Make sure workers know about the asbestos management plan and are trained accordingly.

Workplace Standards Tasmania has a Fact Sheet '*Asbestos in your Home*' (reference GB149) on the WST website publications section: [www.wst.tas.gov.au/](http://www.wst.tas.gov.au/)

For more information about these safety issues, contact the Workplace Standards Tasmania Helpline: Phone 1300 366 322 or (03) 6233 7657. Email: [wstinfo@justice.tas.gov.au](mailto:wstinfo@justice.tas.gov.au)

## **PART 13 Electrical Work**

Electrical safety regulations in all Australian States and Territories specify that **only licensed electrical workers may carry out electrical work.**

### **How to avoid getting into trouble with electricity**

- Don't attempt your own electrical work - it's dangerous (and illegal). Call in a licensed electrical contractor. (If you are unsure, ask to see their licence or contact Electricity Standards *and* Safety, the electrical licensing authority in Tasmania).
- Take care doing home handiwork - do you really know what's behind the wall you're about to drill into?
- Keep electrical appliances away from water. Mixing water with electricity can be fatal.
- Safety switches are not a substitute for maintenance. If you have a suspect appliance either have it repaired by a licensed electrical contractor or throw it out - it's not worth the risk.
- If you find damaged electrical equipment, only licensed electrical contractors should carry out repairs.

- Long leads and extension cords used on a building site must comply with the relevant Australian Standard.

For more information contact:

### **Electricity Standards and Safety**

Phone: 62 33 7851 or 1300 366 322

Email: [wstinfo@justice.tas.gov.au](mailto:wstinfo@justice.tas.gov.au)

Web: [www.wst.tas.gov.au](http://www.wst.tas.gov.au)

30 Gordons Hill Road

PO Box 56,

ROSNY PARK TAS 7018

### **Connection to power supply**

If you are connecting newly constructed premises then you should contact Aurora Energy up to 10 business days prior to when the connection is required. This is provided that they have access, your builder or electrician has given the all-clear and that Aurora does not have to change the distribution network. You may be able to negotiate a quicker connection time with Aurora using their online form or by calling 1300 13 2045.

If supply to your premises involves the construction of new lines or substations, call Aurora on 1300 137 008 to negotiate and agree on a date for connection. Visit the Aurora website, [www.auroraenergy.com.au/](http://www.auroraenergy.com.au/) and search for “Residential New Supply”.

## **PART 14 Plumbing and Gas-Fitting Work**

- There is no scope for owner builders to carry out any plumbing or gas-fitting work (neither the design nor installation work) – it must be carried out by a Registered Plumber or a Registered Gas-Fitter as appropriate. A building practitioner accredited in the category of Building Services Designer can design classes of plumbing work.
- “Plumbing Work” for the purposes of registration is defined in the Regulations made under the *Plumbers and Gas-fitters Registration Act 1952*. People who carry out plumbing work must be registered.
- Check that the tradesperson you are going to use is a Registered Plumber or Gas-Fitter by contacting the Secretary of the Plumbers and Gas-Fitters Registration Board - phone (03) 6233 0445. Email [wstinfo@justice.tas.gov.au](mailto:wstinfo@justice.tas.gov.au)

For general information about gas installation, visit the ‘Gas’ page under “Occupations” at the Workplace Standards Tasmania website: [www.wst.tas.gov.au/](http://www.wst.tas.gov.au/)

## PART 15 Further references

### Where to find more information about being an owner builder

- Further details about the *Building Act 2000* and *Building Regulations 2004*, *Plumbing Regulations 2004*, the building practitioner accreditation system and more is available by following the links on the Workplace Standards Tasmania website: [www.wst.tas.gov.au/building](http://www.wst.tas.gov.au/building) or by phoning the Workplace Standards Tasmania Helpline 1300 366 322
- The building legislation can be viewed by links from the Workplace Standards Tasmania website or at [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)
- The Register of Accredited Building Practitioners can also be viewed by following the links on the Workplace Standards Tasmania website [www.wst.tas.gov.au/building](http://www.wst.tas.gov.au/building)
- For information about Workplace Health and Safety, contact the Workplace Standards Tasmania Helpline 1300 366 322. Web: [www.wst.tas.gov.au](http://www.wst.tas.gov.au)
- Contacting your local council's Building or Development Department;
- For assistance with contractual disputes and consumer enquiries, contact the Office of Consumer Affairs and Fair Trading 1300 654 499. Web: [www.consumer.tas.gov.au](http://www.consumer.tas.gov.au)
- Adult Education offers courses in "Being an owner builder" that provide a general introduction to the subject. There are also courses in specific building projects such as kitchen renovations and decks. Contact the nearest Adult Education office to find when the next course starts. Web: [www.adulteducation.tas.gov.au](http://www.adulteducation.tas.gov.au)
- Some businesses sell "owner builder packages" containing general information on insurance, taxation, contracts etc; for example [www.ownerbuild.com.au](http://www.ownerbuild.com.au). The Tasmanian government does not necessarily endorse this or any other commercial product.
- **Information about becoming an Accredited Building Practitioner:**  
Contact *Building Practitioner Accreditation* (BPA) by phoning the Workplace Standards Tasmania Helpline 1300 366 322; or email: [wstinfo@justice.tas.gov.au](mailto:wstinfo@justice.tas.gov.au)  
Web: [www.wst.tas.gov.au/](http://www.wst.tas.gov.au/)
- **Training in building studies**  
TAFE Tasmania (03) 6245 8058  
or call the TAFE Tasmania HOTLINE: 1300 655 307  
Email: [Built.Environment@tafe.tas.edu.au](mailto:Built.Environment@tafe.tas.edu.au)  
Web: [www.tafe.tas.edu.au/](http://www.tafe.tas.edu.au/)

# OWNER BUILDER DECLARATION

Form **34**

Section 24. Regulation 15A

- WARNING:** it is an offence for any person other than an appropriately accredited builder or an owner builder to manage or carry out the work of a builder. Building work carried out or managed by an owner builder may be subject of an audit by the Director of Building Control.
- For all owner builder applications the original of this Declaration must be provided to the Permit Authority (council) when applying for the building permit.
- Owner builder work over \$5,000 on any Class 1 – 9 building requires Registration. One copy of this Declaration is to be completed, signed and given to your building surveyor so that your application for owner builder Registration can be processed. Owner builder work less than \$5,000 or on any Class 10 building does not need registration.

To: Permit Authority (council name):

Address

Town

Postcode

## Part 1: Owner builder applicant details:

**Note** - all owners of the land must provide their full names and details on this application and sign at **Part 7**.  
**If more than two joint land owners are named on the title please attach a sheet and add their details.**

Name of  
Owner builder 1:

Title	<input type="text"/>
-------	----------------------

D.O.B:

Address (not PO  
Box):

Daytime  
Phone

Town and Post Code

Mobile

Email:

Name of  
Owner builder 2:

Title	<input type="text"/>
-------	----------------------

D.O.B:

Address (not PO  
Box):

Daytime  
Phone:

Town and Post Code

Mobile

Email:

## Application by a body corporate (registered company, incorporated association etc)

Name of body:

Australian  
Company  
Number

Contact address:

Daytime  
Phone:

Town and Post Code

Mobile

Email:

Name of authorised  
contact officer:

Title	<input type="text"/>
<input type="text"/>	<input type="text"/>

Position  
e.g.  
Secretary

<input type="text"/>
<input type="text"/>

## Part 2: Details of the proposed owner builder work:

Full Street Address:			Lot No.	
Town and Post Code			Certificate of Title No:	

Type of work: (circle the appropriate answer)

New	Addition	Repair	Other (specify)
-----	----------	--------	-----------------

Use of the building: (e.g. dwelling)

	Are you the designer of the work?	YES	NO
--	-----------------------------------	-----	----

## Part 3: Information to be supplied by your Building Surveyor:

Estimated cost of the building work calculated from current construction cost data for buildings. Includes the costs of all labour, materials and GST as if the project were to be constructed by an accredited builder.

\$
----

BCA classification(s)	Building Surveyor CC No:	BS initial:
-----------------------	--------------------------	-------------

## Part 4: Previous Owner Builder Work:

Has an applicant performed work as an owner builder since 1 July 2004? (circle answer)	YES	NO
--	-----	----

If Yes – give details below of the building use, permit authority name, date & permit number:

Description - previous Project 1	Permit Authority (council name)	Date	Permit No.
----------------------------------	---------------------------------	------	------------

Description – previous Project 2	Permit Authority (council name)	Date	Permit No.
----------------------------------	---------------------------------	------	------------

## Part 5: Questionnaire: (circle the appropriate answer)

1.	Do you own (or have contracted to purchase) the land on which you are building?	YES	NO
2.	Have you read and understood the information in the document “ <b>Owner Builder Kit</b> ” published by Workplace Standards Tasmania?	YES	NO
3.	Are you aware of duties and obligations as the owner of the land and as the builder under the <i>Building Act 2000</i> , the <i>Building Regulations 2004</i> and other relevant Acts and Regulations related to the management and carrying out of building work? (details in the Owner Builder Kit)	YES	NO
4.	Are you aware that owner builder registration is only applicable to the project that you are granted registration for?	YES	NO
As the owner builder are you aware that will you take responsibility for:			
5.	• organisation of labour and the sourcing of materials?	YES	NO
6.	• arranging payment of employees and sub-contractors, and taxes?	YES	NO
7.	• achieving a standard of building that complies with the Building Code of Australia and the relevant referenced standards?	YES	NO
8.	Are you aware that you may be personally liable in the event of injury or damage arising from the building work if you do not have public liability insurance?	YES	NO
Public Liability Insurance provider:		Policy No	Expiry Date

9.	Are you aware that you are required by law to have a policy of workers compensation insurance to cover all workers for this building project directly employed by you as the employer?	YES	NO
Workers Compensation Insurance provider:		Policy No	Expiry Date
10.	Are you intending to manage or carry out the building work yourself?	YES	NO

### Part 6: Project Key Personnel:

**Note** that licensed electricians and plumbers must **always** be used for any electrical or plumbing work.

Complete the following details for all key personnel for this project. *If not known at this stage please write "not known".*

Role or Position e.g. "carpenter"	Name:	Accredited Practitioner Number (if applicable)	Workers Compensation Insurance Policy Number (if applicable)
Project Manager			
Carpenter			
Bricklayer			
Roofer			
Other			

### Part 7: Statement by Owner Builders

I declare that I am intending to be an owner builder as defined in the *Building Act 2000* and understand the following: –

1. I am aware of the obligations, risks and responsibilities as the owner builder under the *Building Act 2000*, the *Building Regulations 2004* and the *Plumbing Regulations 2004*;
2. I am the accountable person and responsible officer for the purposes of the *Workplace Health and Safety Act 1995* and the *Workplace Health and Safety Regulations 1998*;
3. I am responsible for the quality of work and may be liable to subsequent owners for defective building work;
4. The information provided by me is complete, accurate and true to the best of my knowledge. I understand that there are penalties for providing false or misleading information, or to omit any matter, knowing that without that matter the information, statement, report or document is false or misleading.

#### Owner 1

Print Name \_\_\_\_\_

Signature of Owner \_\_\_\_\_

Date: \_\_\_\_\_ / \_\_\_\_\_ / 200 \_\_\_\_\_

#### Owner 2

Print Name \_\_\_\_\_

Signature of Owner \_\_\_\_\_

Date: \_\_\_\_\_ / \_\_\_\_\_ / 200 \_\_\_\_\_

**If more than two owners please attach an additional sheet.**

#### Personal Information Protection Statement

Workplace Standards Tasmania (WST) and your local council will collect personal information from you for the purpose of processing this application. You are required to provide this information by the *Building Act 2000* and the *Building Regulations 2004*. Failure to provide this information may result in your application not being processed. Your personal information will be used for the primary purpose for which it is collected and may be disclosed to other authorised organisations. Your personal information may be disclosed to contractors or agents of WST and your local council, law enforcement agencies, courts and other public sector bodies or organisations authorised to collect it. Personal information will be managed in accordance with the *Personal Information Protection Act 2004* and may be accessed by the individual to whom it relates on request to WST or to your local council. You may be charged a fee for this service.