

What you need to know about

Being an owner-builder



Many owner-builders gain great satisfaction from undertaking their own building work.



What is an owner-builder?

An owner-builder is defined as a person who constructs or renovates a domestic building on his or her own land, who is not in the business of building.

From June 2005 owner-builders:

- Must obtain a *Certificate of Consent* from the Building Practitioners Board in order to obtain a building permit to carry out domestic building work valued over \$12,000
- Must ensure they read and understand information on their legal obligations and responsibilities
- May obtain building permits for a single dwelling and associated work on a single property, in any three-year period.

What is a *Certificate of Consent*?

A *Certificate of Consent* is an individual's written approval from the Building Practitioners Board to act as an owner-builder on their own land.

Owners who intend to apply for a building permit for domestic building work as an owner-builder must provide to the relevant building surveyor a *Certificate of Consent* issued by the Building Practitioners Board.

What is the process for applying for a *Certificate of Consent*?

Contact the Building Commission on 1300 360 320 to obtain an *Owner-Builder Information and Education Kit*.

Read the information contained in the kit then complete the enclosed application form.

To obtain a *Certificate of Consent* you will be required to:

- Provide a *Statutory Declaration* stating that you have read the information kit
- Provide details on any building permits for domestic building work you have carried out within the previous three years
- Confirm your current residency and intention to reside in the dwelling
- Provide a description of your proposed domestic building construction project
- Provide the address of the land on which the work is to be carried out

- Provide your name, address and contact details and confirmation that you are the owner of the land
- Provide details of any existing buildings on the land.

Send the completed application form and relevant information along with the *Statutory Declaration* and application fee:

By mail: Building Practitioners Board
PO Box 536E
Melbourne VIC 3001

In person: Building Practitioners Board
Level 27, Casselden Place
2 Lonsdale Street (Cnr Spring & Lonsdale Streets)
Melbourne VIC 3000

What are the potential benefits of being an owner-builder?

Many owner-builders gain great satisfaction from undertaking their own building work. They often use their own trade or management skills and generally perform many of the tasks themselves.

Owner-builders may save money when they use their own skills and assume the risk that a builder would otherwise undertake. Of course they may just as easily lose money when things do not run smoothly or when mistakes are made along the way.

An owner-builder may benefit from managing the project so that work occurs when money is available. This often spreads the project over many months or years but is an affordable alternative for some. In this regard, it is important to note that a building permit is only valid for two years. Also, an owner-builder needs to be aware of possible cost increases of materials over time. If the project is likely to go for longer, an extension of time should be requested from the relevant building surveyor **before** the permit expires.

Why change the owner-builder laws?

- To provide greater protection for Victorian consumers buying owner-built properties
- To safeguard and educate genuine owner-builders
- To ensure the high quality of buildings are maintained by reinforcing the current registration system
- To bring Victoria into alignment with other states across Australia.

What responsibilities does an owner-builder have?

Owner-builders must carry out domestic building work in compliance with the *Building Act 1993* and *Building Regulations*.

Owner-builders must ensure that they maintain a safe workplace and should have appropriate workplace and public safety insurance policies in place. They should also consider purchasing policies to protect themselves against fire and theft. When protection work is required, the owner-builder must also obtain insurance for adjoining property protection during construction, and for twelve months following completion.

What potential risks do owner-builders take?

An owner-builder effectively assumes the responsibilities, legal risks and liabilities of a registered building practitioner.

These risks can include:

- Financial risks**
 - Project cost increases as a result of poor estimating
 - Rework due to faulty workmanship and/or non-compliance
 - Variations from the original plans
 - Loss by theft or fire on the site
 - Site protection costs (security, safety)
 - Occupational health and safety claims
 - Adjoining property owner claims
- Quality risks**
 - Adequacy of drawings and specifications
 - Standard of workmanship by others
 - Compliance with regulations (building, occupational health and safety, etc)
 - Technical ability to direct and assess workmanship
- Time risks**
 - Identification and engagement of suitable tradespeople
 - Coordination and continuity of work
 - Completion of work
- Future risks**
 - Cost of insuring prospective purchasers within 6.5 years after a Certificate of Final Inspection or Occupancy Permit is issued
 - Claims by purchaser within statutory time period

Many of these risks may influence the cost of building work. Risks are reduced where a trade contractor, being a registered building practitioner, is engaged under a major domestic building contract with associated warranties. Where the contract sum exceeds \$12,000 and the contractor is required to provide warranty insurance, risks are further reduced.

Contact your insurance broker about how you can offset financial risks through insurance.

Can owner-builders use contractors?

Yes. Where an owner-builder engages a contractor they remain responsible for the building project and must supervise the building work to ensure it is completed properly, arrange mandatory inspections through a relevant building surveyor and make appropriate payments to all contractors.

The owner-builder will need to comply with:

- *Building Regulations* under the *Building Act 1993* including obtaining all required permits, inspections and certificates
- Local council requirements for building site access and protection
- WorkSafe requirements as related to workers on site
- Occupational health and safety standards to protect workers, site visitors and the public
- Other authority approval, consents and permits.

The owner-builder must also:

- Engage registered building practitioners for work over \$5,000 unless the single trade is exempt under section 6 of the *Domestic Building Contracts Act 1995*
- *Enter into a Major Domestic Building Contract for building work over \$5,000 that is carried out by a contractor
- Ensure the Registered Building Practitioner has from the contractor domestic warranty insurance for building work over \$12,000
- Obtain a defects report if selling within 6.5 years of completing the work
- Provide warranty insurance for a future purchaser of the property if selling within 6 years of completing the work
- Insure the adjoining property against damage when undertaking protection work.

***For domestic building work exceeding \$5,000 in value, the contractor will be required to be a registered building practitioner and provide a Major Domestic Building Contract. The contract must be in writing and include certain minimum features as defined under the *Domestic Building Contracts Act 1995*.**

The trade contractors who will require registration (for work over \$5,000) and insurance (for work over \$12,000) include:

- Carpenters
- Bricklayers
- Concreters
- Roof tilers
- Swimming pool installers
- Cabinet makers and kitchen contractors
- Restumpers
- Bathroom renovators
- House relocators

In addition, plumbers, gas fitters and electricians need to be licensed with their respective licensing bodies.

The owner-builder must provide the registration details of contractors engaged in the building work at the end of the project as part of their application for a Certificate of Final Inspection or Occupancy Permit.



Other trades do not need to be registered because they are provided with exemptions under the *Domestic Building Contract and Tribunal (General) Regulations 1996*. These may include:

- Awnings, screens, etc
- Floor coverings
- Drainage
- Insulation
- Painting
- Wall and floor tiling
- Glazing
- Plastering
- Tennis court fencing
- Erection of masts, antennas, etc

Please note: if a contractor provides more than one of these exempted trades above, he or she will need to be registered with the Building Practitioners Board (where the total value of the combined trades exceeds \$5,000).

Tips for dealing with contractors

- Ask for evidence of registration. All registered building practitioners are provided with a registration card and are listed on the Building Commission's website www.buildingcommission.com.au
- Use written contracts with all contractors you engage.
- Where the value of the building work exceeds \$5,000, ensure you engage registered building practitioners if required to do so. You can check if a builder or trade contractor is registered by visiting www.buildingcommission.com.au or by calling 1300 360 320
- Obtain the warranty insurance cover from relevant trade contractors when building work exceeds \$12,000
- Be fully aware of all legal and construction requirements.
- Be fully aware of the time required to plan, finance, supervise and undertake your own project
- Obtain quotes from more than one contractor for relevant parts of the work, ensuring to specify exactly the same requirements to each
- Use licensed tradesmen where required (plumbers, electricians, etc)
- Do not assume that the tradesmen you engage will look after everything or proceed without a detailed description of the work that they are required to do.

What happens when you sell your home?

If a property owner sells their house within six years of completing work as an owner-builder, they must provide warranty insurance cover to the purchaser of the property. They are also required to provide a technical inspection report that identifies defects.

It is important that owner-builders understand that the insurance policy is for the benefit of the purchaser and that the owner-builder will be responsible for ensuring that the work has been done according to law.

What is the process of applying for a building permit?

A building permit is written approval from a registered building surveyor (municipal or private) certifying that your plans comply with the *Building Regulations*. You must have this permit before any work can begin.

Before applying for a building permit, an owner-builder may need to obtain a *Certificate of Consent* from the Building Practitioners Board. The *Certificate of Consent* forms part of the information required to submit to the building surveyor as part of the building permit application. Typically other information includes:

- Architectural drawings
- Materials specifications
- Energy ratings
- Structured drawings and details
- Copy of Title
- Building permit application form.

There is a government levy on building permits collected by the building surveyor for projects worth more than \$10,000. Levies are used to administer building legislation in the State of Victoria and are calculated from the cost of building work proposed. Owner-builders are required to provide sufficient information to enable the building surveyor to estimate the value of the building work. It must include the commercial rate of labour and materials, as well as GST. The value of the building work is based on what the owner would reasonably expect to pay a registered builder under a major domestic building contract.

The standard of documentation of the application has a direct impact on the length of time to obtain a building permit. High quality documentation will enable efficient assessment by the building surveyor and facilitate prompt issuing of the building permit.

A person who knowingly makes any false or misleading statements or information to a person or body carrying out any function under the Act or Regulations administering a building permit, risks incurring significant financial penalties.

Frequently asked questions

What obligations do owner-builders have when selling?

If a property owner sells their house within six years of completing work as an owner-builder, they must provide warranty insurance cover to the purchaser of the property. They are also required to provide a technical inspection report that identifies defects. It is an offence to sell a building without the required report and insurance. Penalties of up to \$10,000 apply.

Can an owner-builder sell an incomplete project?

Yes. However, it is an offence under the *Building Act* for an owner-builder to sell a building prior to completion if it is intended that the works be completed prior to settlement of the *Contract of Sale*. That is, an owner-builder cannot sell 'off-the-plan' or before completing building work he or she intends to complete. Penalties of up to \$10,000 apply.

What approvals does an owner-builder need?

An owner-builder must obtain a *Certificate of Consent* from the Building Practitioners Board before carrying out any domestic building work as an owner-builder. An owner-builder will not be able to obtain a building permit without a *Certificate of Consent*.

What should a person do if they want to buy an owner-built house?

When buying an owner-built house within six and a half years of completion of the work, a defects inspection report prepared by a prescribed building practitioner engaged by the owner-builder must be provided. The required warranty insurance must also be in place if the property is sold within six years of completion. Known defects are deemed to be acceptable to the purchaser. For more information, please contact Consumer Affairs Victoria on 1300 557 559 or contact your insurance broker.

Can owner-builders construct multi-unit developments?

No. People in the business of building must be registered building practitioners.

What happens if a registered building practitioner is engaged as the builder for the major part of the project after the building permit has been issued?

The owner must notify the relevant building surveyor within 14 days of engagement that they are no longer an owner-builder. In this circumstance, the builder must also notify the relevant building surveyor in writing and give details of their required registration and insurance. The builder must also provide the owner with a major *Domestic Building Contract* for the domestic building work they are undertaking.

What happens if I have a dispute with my builder or contractor?

You can seek advice through Building Advice and Conciliation Victoria and the Building Commission to help resolve disputes in an efficient and timely manner. For more information, please contact Building Advice and Conciliation Victoria on 1300 557 559. You can contact Consumer Affairs Victoria and get advice regarding your rights under the *Fair Trading Act 1999*.

Can owner-builders undertake demolition and removal work?

It is rare for a permit to demolish a building to be issued to an owner-builder. To obtain such a permit, the owner must demonstrate to the relevant building surveyor that he or she has the necessary knowledge, experience, equipment, and storage facilities to properly conduct the demolition operations as required by the *Building Regulations*.

What taxation obligations do owner-builders have?

Owner-builders are likely to have taxation obligations when selling a property with a view to a profit. For instance, owner-builders may have income tax obligations if selling their property as an investment or speculative venture. Also, if a property is sold within five years of building work completion, it could attract GST. For more information, please contact the Australian Taxation Office on 13 28 66 or your taxation adviser.



Where can further advice be obtained?

<i>Practitioner registration</i>	Practitioners Services, Building Commission	Telephone 1300 360 320 www.buildingcommission.com.au
	Plumbing Industry Commission	Telephone 1800 015 129 www.pic.vic.gov.au
	Energy Safe Victoria	Telephone (03) 9203 9700 www.esv.vic.gov.au
<i>Building related disputes</i>	Building Advice and Conciliation Victoria (BACV)	Telephone 1300 557 559
	Consumer Affairs Victoria	Telephone 1300 558 181 www.consumer.vic.gov.au
	Building Commission	Telephone (03) 9285 6400 www.buildingcommission.com.au
<i>Owner-builder training and information</i>	Office of Training and Tertiary Education	Telephone 13 1823 www.otte.vic.gov.au
	Holmesglen Institute of TAFE	Telephone (03) 9564 1555 www.holmesglen.vic.edu.au
	Building Display Centre	Telephone (03) 9419 7488 www.buildingdisplaycentre.com.au
	Timber Advisory Centre	Telephone (03) 9875 5010 www.timber.asn.au
<i>Occupational Health & Safety</i>	Workcover	Telephone (03) 9641 1555 www.workcover.vic.gov.au
<i>Taxation</i>	Australian Taxation Office	Telephone 13 2866 www.ato.gov.au

Need more information?

Telephone 1300 815 127

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