

# Owner-builder

## Application Kit



#### Disclaimer

Copyright in the contents of this document is owned by the Building Commission. Except as provided for in the *Copyright Act 1968*, no part may be reproduced without permission. The Building Commission believes that all information, both written and oral, given in the course of or in connection with its activities (whether by the Commission itself or its employees or agents) is accurate and reliable. However, no warranty of accuracy or reliability as to such information is given, and no responsibility for loss arising in any way from or in connection with errors or omissions in any information provided (including responsibility to any person by reason of negligence) is accepted by the Commission or by any of its agents or employees.

Building Commission © 2006



# Contents

---

<b>Introduction</b>	<b>3</b>
What is an owner-builder?	3
What is a Certificate of Consent?	3
What risks do owner-builders take?	4
What is domestic building work?	4
<b>Certificates of Consent</b>	<b>5</b>
When is a Certificate of Consent required?	5
When is a Certificate of Consent not required?	5
What happens if I carry out domestic building work without a Certificate of Consent?	5
Applying for a Certificate of Consent	5
How do I apply for a Certificate of Consent?	5
Can I appeal against a decision of the Building Practitioners Board?	6
<b>Engaging builders and tradespeople</b>	<b>7</b>
Requirements of an owner-builder	7
Disputes involving contractors	7
How can Building Advice and Conciliation Victoria (BACV) help?	8
Tips for resolving disputes	8
What to do if the dispute needs conciliation	9
How long does the BACV process usually take?	9
How can the Building Commission help?	9
How can the Victorian Civil and Administrative Tribunal (VCAT) help?	10
<b>Selling your property and insurance</b>	<b>11</b>
Requirements under the Building Act	11
For how long are these requirements imposed?	11
What statutory warranties apply?	11
What reports do I need to obtain?	11
What insurance do I need to obtain?	12
Can I be exempted from any of these requirements?	12
What happens if I do not comply with these requirements?	12
Can I sell my home if building work is incomplete?	12
<b>Useful contacts</b>	<b>13</b>
<b>Glossary of terms</b>	<b>15</b>
<b>Application for a Certificate of Consent Checklist</b>	<b>16</b>
<b>Application for a Certificate of Consent</b>	<b>17</b>
<b>List of persons authorised to witness</b>	<b>24</b>



# Introduction

Owner-builder laws exist in Victoria to provide protection for consumers, genuine owner-builders and registered building practitioners.

The information contained in this application kit will provide you with the necessary information to help you determine if you are a genuine owner-builder, the risks and responsibilities that an owner-builder takes and what is required to apply for a Certificate of Consent from the Building Practitioners Board.

Please carefully read the information enclosed in this application kit. If you have further questions, please contact the Building Commission on 1300 360 320.

## What is an owner-builder?

An owner-builder is a person who carries out building work on his or her own land. This generally does not include registered builders.

If the land is owned by a body corporate or is the subject of a trust, the owner-builder must be a body corporate director or a trust beneficiary. Body corporate directors and trust beneficiaries will need written permission from the body corporate or trustees to apply for a Certificate of Consent (see *What is a Certificate of Consent?*) and to carry out any domestic building work on the property. Similarly, if the land is owned by more than one person, the owner-builder will need the written permission of all other owners.

Owner-builders take on many of the responsibilities of a builder. Depending on the circumstances, these may include:

- Obtaining all permits required
- Supervising building work and/or carrying out the work themselves
- Ensuring the work meets relevant building regulations, standards and other laws
- Arranging for building inspections as required by law at particular stages of the building work
- Obtaining an occupancy permit or certificate of final inspection from the relevant building surveyor on completion of work.

If you, as an owner-builder, contract out part of the work to a registered building practitioner or tradesperson then your responsibilities will be different (see *Engaging builders and tradespeople*). If you engage a builder

to undertake domestic building work, the builder will be responsible for that part of the building work and ensuring that the work meets relevant building regulations, standards and other laws.

As an owner-builder, you may:

- Undertake all or part of the building work yourself, except in areas that require licensed tradespeople, such as electricians and plumbers (unless you are an electrician or plumber)
- Contract out part of the work to building practitioners or tradespeople.

Owner-builders:

- Need to obtain a Certificate of Consent from the Building Practitioners Board in order to obtain a building permit to carry out domestic building work where the cost is more than \$12,000
- Can only obtain a Certificate of Consent if they have not been issued with a building permit to carry out work as an owner-builder in the previous three years. The exception to this is where the permit was in relation to or ancillary to the dwelling on the same land that the application refers to
- Must reside and continue to reside, or intend to reside in the single home
- Must be the owner (Registered Proprietor on Title).

## What is a Certificate of Consent?

A Certificate of Consent is written approval from the Building Practitioners Board that enables you to obtain a building permit and carry out domestic building work as an owner-builder on your own land. Obtaining a Certificate of Consent is not a guarantee that you will be issued with a building permit.

The relevant building surveyor will still need to assess the application for a building permit and ensure (amongst other things) that the proposed building work will comply with the building regulations.

For further information on Certificate of Consents, refer to the *Certificate of Consent* section on page 5.

## What risks do owner-builders take?

An owner-builder assumes most of the responsibilities, risks and liabilities of a builder. The level of responsibilities, risks and liabilities of an owner-builder depends on the extent of the building work undertaken by the owner-builder.

These risks may include:

### Financial risks

- Project cost increases as a result of poor estimating
- Rectification work 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
- Claims by purchaser.

Risks are reduced if the owner enters into a major domestic building contract with a registered building practitioner for some or all of the work. Where the contract sum exceeds \$12,000 and the contractor is required to provide insurance, risks are further reduced.

As an owner-builder, you need to ensure that you have appropriate workplace and public safety insurance policies in place. You should also consider purchasing policies to protect yourself against fire and theft. When protection work is required, you must also obtain insurance for adjoining property protection during construction and for 12 months following completion.

Before you become an owner-builder you need to learn about:

- Risks associated with asbestos and renovations
- Health and safety obligations under the *Occupational Health and Safety Act 1985/2004*
- Tax law requirements related to paying contractors.

## What is domestic building work?

Typical domestic building work includes:

- The erection or construction of a home, including any associated work, such as landscaping, paving, retaining walls, driveways, garages, carports, swimming pools and spas
- The renovation, alteration, extension, improvement or repair of a home
- The demolition or removal of a home.

For full definitions of domestic building work, refer to the *Domestic Building Contracts Act 1995* and *Domestic Building Contracts and Tribunal (General) Regulations 1996*.



# Certificates of Consent

## When is a Certificate of Consent required?

Landowners who intend to apply for a building permit to carry out domestic building work which costs more than \$12,000 in relation to a single home as an owner-builder, must provide a Certificate of Consent to the relevant building surveyor.

You will need to obtain subsequent Certificates of Consent for any additional building work (costing over \$12,000) on the same property. A separate Certificate of Consent is required each time you make an application for a building permit. Each application for a Certificate of Consent must be accompanied by the \$75 application fee.

A Certificate of Consent is valid for three years from the date it is issued.

## When is a Certificate of Consent not required?

If you intend to carry out domestic building work as an owner-builder that costs \$12,000 or less, you do not require a Certificate of Consent in order to obtain a building permit. You may still require a building permit to carry out this building work.

If you are a registered builder or a registered architect, you do not require a Certificate of Consent in order to carry out work as an owner-builder.

If you engage a builder for the entire project then you are not an owner-builder. The builder needs to be registered if the work costs over \$5,000 and provide domestic warranty insurance if the work is valued over \$12,000.

If you engage a number of builders to construct various parts of the work and also do some small components yourself, you can be an owner-builder.

## What happens if I carry out domestic building work without a Certificate of Consent?

If you carry out domestic building work valued over \$12,000 without a Certificate of Consent and/or building permit, you could be prosecuted. Maximum penalties range from around \$5,000 to \$10,000.

## Applying for a Certificate of Consent

To be eligible for a Certificate of Consent you must:

- Be an individual that is either
  - The sole owner of the land, or
  - A co-owner of the land, or
  - The director of the body corporate that owns the land and have written authority from the body corporate to apply and carry out the work<sup>1</sup>, or
  - The beneficiary of a trust that owns the land and have written authority from each trustee to apply and carry out the work<sup>2</sup>
- Reside in the dwelling and continue, or intend to reside there.

## How do I apply for a Certificate of Consent?

To apply for a Certificate of Consent, you must:

- Read the information contained in this owner-builder application kit
- Complete the application form
- Sign the statutory declaration after reading the information in this owner-builder application kit and completing the application form
- Submit the completed application form, with any supporting documents, to the Building Practitioners Board, together with the \$75 application fee.

<sup>1</sup> Body corporate directors who apply for a Certificate of Consent must also reside and continue to reside in the dwelling, or intend to reside there.

<sup>2</sup> Trust beneficiaries who apply for a Certificate of Consent must also reside and continue to reside in the dwelling, or intend to reside there.

## Can I appeal against a decision of the Building Practitioners Board?

You may appeal to the Building Appeals Board if the Building Practitioners Board:

- Refuses to issue you with a Certificate of Consent; or
- Fails to make a decision on your application within a reasonable time.

The Building Appeals Board will consider your appeal and in making a decision may agree with, overturn, set aside or vary the Building Practitioners Board's decision. Appeals must be made within 60 days of the decision by the Building Practitioners Board.

If the Building Practitioners Board's decision is set aside, the Building Appeals Board may:

- Put in place its own decision
- Require the Building Practitioners Board to reconsider your application in accordance with any directions or recommendations that it considers appropriate.

If the appeal is against the Building Practitioners Board's failure to make a decision on your application for a Certificate of Consent, then the Building Appeals Board may exercise the Building Practitioners Board's power to either issue or refuse to issue the Certificate of Consent.



# Engaging builders and tradespeople

## Requirements of an owner-builder

As an owner-builder, you may:

- Undertake all or part of the building work yourself, except in areas that require licensed tradespeople, such as electricians and plumbers (unless you are an electrician or plumber)
- Contract out some of the work to building practitioners or tradespeople.

If you enter into a contract with a person to complete any building work and the contract price is more than \$5,000, the person must be a registered building practitioner and must enter into a written Domestic Building Contract with you. The contract must include certain minimum terms, as defined under the *Domestic Building Contracts Act 1995*. There are certain tradespeople however who carry out domestic building work as a single trade only. These tradespeople do not have to provide you with a major Domestic Building Contract for work over \$5,000 (see following list).

If you engage a person to carry out any building work for which the contract price is more than \$12,000, that person must ensure that the work is covered by domestic building insurance. The details of the insurance are required to be included on the Domestic Building Contract by the registered building practitioner.

If you engage this person before the building permit is issued, you must notify the relevant building surveyor when you make the application for the building permit.

If you engage this person after a building permit has been issued, you must give the relevant building surveyor written notice of the engagement within 14 days, including the building practitioner's registration details.

If you do not comply with this requirement, you may be prosecuted by the Building Commission.

Tradespeople carrying out the following domestic building work as a single trade only do not need to offer you a major Domestic Building Contract for work over \$5,000:

- Attaching external fixtures (including awnings, security screens, insect screens and balustrades)
- Draining and plumbing work<sup>3</sup>
- Electrical work
- Glazing
- Installation of floor coverings
- Insulating
- Painting
- Plastering
- Tiling (wall and floor)
- Erecting a chain wire fence to enclose a tennis court
- Erecting a mast, pole, antenna or similar structure.

However, if more than one trade is carried out by the same tradesperson for more than \$5,000 (for example, the plasterer also does the painting), they will be required to be registered and enter into a major Domestic Building Contract. For work valued over \$12,000, they must also provide domestic building insurance.

Registration details of registered building practitioners can be checked on the Building Commission website at [www.buildingcommission.com.au](http://www.buildingcommission.com.au) under 'Finding an RBP' or by calling 1300 360 320 for information advice or assistance (see *How can Building Advice and Conciliation Victoria (BACV) help?*).

## Disputes involving contractors

If a dispute were to arise between the building practitioner or tradesperson who has been engaged and yourself, good communication is the first step towards finding a resolution. Sometimes, all the parties need is to better understand their rights and the laws related to building.

If you have a problem with a building practitioner or tradesperson and cannot resolve it yourselves, you can contact Building Advice and Conciliation Victoria (BACV) on 1300 557 559 for information, advice or assistance (see *how can Building Advice and Conciliation Victoria (BACV) help?*).

<sup>3</sup>As defined under Section 85(1) of the Building Control (Plumbers, Gasfitters and Drainers) Act 1981



## How can Building Advice and Conciliation Victoria (BACV) help?

Building Advice and Conciliation Victoria (BACV) is a free, joint service provided by the Building Commission and Consumer Affairs Victoria. At any stage of your building or renovating project you can turn to BACV for information, advice or assistance in resolving disputes.

### BACV services provided by Consumer Affairs Victoria:

- Enquiries staff give telephone advice
- Conciliators assist you and your builder to reach agreement and resolve the dispute
- Investigators may check to see if laws have been broken
- Solicitors may prosecute builders who have broken laws.

### BACV services provided by the Building Commission:

- Technical experts provide telephone advice
- Building inspectors check for defective work and refer builders who refuse to fix work to the Building Practitioners Board for disciplinary action
- Investigators may check to see if laws have been broken
- Prosecute any person who has broken the law.

BACV has found that most disputes can be resolved quickly and cheaply with the right advice. Contact BACV if you want additional information on contractual or technical problems that can develop during your domestic building project. If you have a problem and have discussed it with your builder but still cannot reach agreement on a solution you should call BACV on 1300 557 559.

You may also seek independent legal advice from a specialist building solicitor, or take your case to the Victorian Civil and Administrative Tribunal (VCAT) (see *How can VCAT help?*).

## Tips for resolving disputes

- Have realistic expectations.
- Identify exactly what your problem is. Is it the workmanship, the service, an individual or a product?
- If the dispute involves several problems with different people, then deal with each of them separately if possible.
- Collect all the evidence you need to back up your claim such as documents, receipts, photographs and warranties. Research your rights and responsibilities. Check the Building and Renovating web pages at [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au) or call BACV on 1300 557 559.
- Determine the outcome you want and would be willing to accept. Ask yourself if your demands are reasonable? Have you taken into account your rights and the building practitioner's rights and obligations under law?
- Act quickly on your complaint. Delays could affect your rights.
- Contact the building practitioner or tradesperson involved in the dispute. It is best to make face to face or telephone contact first to find out the building practitioner's immediate reaction to your concerns. Always follow up by letter or e-mail to ensure you have written evidence of the complaint.
- Wait until you are not angry or upset to make contact and think about what you want to say beforehand.
- Explain the problem in as much detail as possible.
- Remain calm, don't raise your voice or become argumentative.
- Offer solutions and keep an open mind about the solutions the other person offers.
- Take notes of your conversation. Include the date and name of the person you spoke to.
- When an agreement has been reached, be sure to attach it to your Domestic Building Contract, signed by all parties involved. It should include the action that will be taken, who will do what, how it will be done, the timeframe and agreed payment.

## What to do if the dispute needs conciliation

If you cannot resolve a dispute, you can make a written complaint to be assessed by a BACV conciliator.

Complaint forms are available from the:

- Consumer Affairs Victoria website at [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au) or by calling 1300 558 181
- Consumer Affairs service counter at  
Consumer Business Centre  
Ground Floor, 121 Exhibition Street  
Melbourne VIC 3000

Once you have filled out the form, attach a photocopy of your Domestic Building Contract and other relevant details and either:

- Send it to:  
Building Advice and Conciliation Victoria  
Consumer Affairs Victoria  
GPO Box 123A  
Melbourne VIC 3001, or
- Deliver it in person to:  
Consumer Affairs Victoria at the  
Consumer Business Centre  
Ground Floor, 121 Exhibition Street  
Melbourne VIC 3000

A BACV conciliator will read your complaint and may then, if appropriate, work with you and the building practitioner to help you reach a voluntary agreement on how to resolve the dispute or advise you of other more appropriate options.

If your complaint suggests evidence of faulty work and the conciliator is unable to get a voluntary agreement to fix the work, a BACV building inspector may make a site visit to decide whether the work is defective. Building practitioners refusing to fix defects or committing breaches of legislating requirements may find themselves subject to disciplinary action or prosecution.

## How long does the BACV process usually take?

The length of the BACV process depends upon your individual case, supporting information and evidence, and how willing both parties are to reach an agreement.

Many problems are resolved after advice is given or a conciliator is engaged to help. The process may take longer to work through if a building inspector is required to view and assess defective work.

## How can the Building Commission help?

If you engage a registered building practitioner and believe the practitioner may have breached professional standards or the requirements of the *Building Act 1993*, you can make a written complaint to the Building Commission. The Building Commission takes all complaints seriously and may refer the case to the Building Practitioners Board for disciplinary action. Alternatively, you may refer your complaint directly to the Building Practitioners Board.

The Building Commission may also offer a domestic building inspection service that can determine whether building work performed by your contractor is defective. The *Domestic Building Contracts Act 1995* allows the Director of Consumer Affairs Victoria as part of the conciliation process to identify cases where an inspector may assist in resolving the dispute. In such cases, the Director can ask the Building Commission to undertake an inspection of the building work.

The *Domestic Building Contracts Act 1995* alternatively allows you to apply for a domestic building inspection directly from the Building Commission at any stage, either during or after completion of building work if you are party to a dispute arising under a domestic building contract. Only items in dispute will be inspected. An inspection report will be issued for the defective items and a recommendation of what should be done to rectify the defective work. The fee for a domestic building inspection under these circumstances is \$300 inclusive of GST.

In conciliation or mediation, the inspection report may help resolve your dispute as it is an independent assessment and evidence of the quality of building work.

## How can the Victorian Civil and Administrative Tribunal (VCAT) help?

In addition to utilising the free BACV conciliation service, you have the option of having your building dispute determined by the Victorian Civil and Administrative Tribunal (VCAT). In general, a party to a dispute will refer the matter to VCAT when a negotiated mutually agreeable outcome between the parties via BACV's conciliation service is not possible. However, it is important to note that the VCAT option is available to parties at any time in the process.

You can take disputes to VCAT at any time for up to 10 years after an occupancy permit or certificate of final inspection is issued.

VCAT hears disputes concerning Domestic Building Contracts, regardless of the amount in dispute, and has jurisdiction to hear and decide on:

- Domestic building disputes
- Disputes relating to owners' insurance claims and insurers' decisions on such claims
- Requests to stop building work that doesn't comply with the contract
- Matters referred under the *House Contracts Guarantee Act 1987*.

Further information on VCAT including the relevant application fees can be obtained by calling VCAT on 03 9628 9999 or by accessing their website at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).



# Selling your property and insurance

## Requirements under the Building Act

If you sell your owner-built home within six and a half years after the domestic building work has been completed (ie. from the date of issue of your occupancy permit or certificate of final inspection), you must comply with the following additional requirements under the *Building Act 1993*:

- Ensure that the contract of sale sets out the compulsory statutory warranties that you are required to give the homebuyer
- Obtain a defects report on the domestic building work prepared by a prescribed building practitioner. The report must not be older than six months
- Obtain owner-builder domestic building insurance covering the domestic building work (if within six years of completion).

These requirements ensure that current and future buyers of your home are covered if the building work carried out by you, or on your behalf, turns out to be defective.

A buyer of your home who finds defective building work that did not appear on the required defects report can make a claim against you for breach of statutory warranties. If the defective work was carried out by a registered building practitioner, then you may have a claim against that practitioner. Owner-builder domestic building insurance only covers situations where the owner-builder is dead, has disappeared or is insolvent.

## For how long are these requirements imposed?

If you sell your owner-built home within six years of completion of building work, you must provide domestic building insurance and a defects report.

If you sell your owner-built home on or after six years, but within six and a half years of completion<sup>4</sup> of building work, you must provide a defects report only.

If no occupancy permit or certificate of final inspection has been issued and you sell your home within six years of commencement of building work, you must provide domestic building insurance and a defects report.

If no occupancy permit or certificate of final inspection has been issued and you sell your home on or after six years, but within seven years of commencement of building work, you must provide a defects report only.

## What statutory warranties apply?

If you sell your owner-built home within six and a half years after domestic building work has been completed, it is taken that you have assured the buyer that:

- All domestic building work carried out in relation to the construction by you or on your behalf was completed in a proper and workmanlike manner
- All materials used during domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new
- The domestic building work was carried out in accordance with all laws and legal requirements, including the *Building Act 1993* and the relevant Building Regulations
- The Building Act allows a claim against a party for undertaking defective building work to be brought for up to 10 years.

The contract of sale is required to contain these warranties, although they are implied into the contract of sale, even if they are not expressly referred to in that contract.

## What reports do I need to obtain?

You must obtain a defects report on the building from a 'prescribed building practitioner'. A prescribed building practitioner includes a registered architect, building surveyor, building inspector, engineer or a person recognised by the Minister under the *House Contracts Guarantee Act 1987*.

The report must not be more than six months old when you enter into the contract to sell the land and the building. You must give a copy of this report to the homebuyer.

<sup>4</sup>Completion dates from the issue date of your occupancy permit or certificate of final inspection.



### What insurance do I need to obtain?

You must obtain domestic building insurance to cover against any claims brought against you by current and future homebuyers, based on the warranties referred to in this application kit. You must provide the homebuyer with a certificate of the insurance.

It is important to remember that domestic building insurance may only come into effect if you die, disappear or are insolvent. Refer to the *Useful Contacts* section for more information on insurance.

### Can I be exempted from any of these requirements?

You may apply to the Victorian Civil and Administrative Tribunal (VCAT) to be exempted from these requirements if:

- There are exceptional circumstances; or
- Full compliance with these requirements is impossible and / or would cause undue hardship.

### What happens if I do not comply with these requirements?

If you enter into a contract to sell your owner-built home without complying with the requirements to obtain a defects report and insurance in respect of the dwelling and set out the warranties in the Contract of Sale, the purchaser has a right to 'walk away' from the sale at any time prior to settlement. The contract of sale is not automatically void, but is considered to be 'voidable'. You may also be prosecuted, with a maximum penalty of around \$10,000. You cannot 'contract out' of these requirements. They will apply even if you and the purchaser agree otherwise.

### Can I sell my home if building work is incomplete?

Yes, however it is generally an offence under the *Building Act 1993* for you to sell an owner-built building prior to completion if you intend to complete the works prior to settlement of the Contract of Sale. That is, you generally cannot sell 'off-the-plan' or before completing building work you intend to complete. Penalties of up to around \$10,000 apply.



# Useful contacts

## Education providers

Chisholm Institute of TAFE

Telephone 1800 444 220

[www.chisholm.vic.edu.au](http://www.chisholm.vic.edu.au)

Department of Education and Training

[www.shortcourses.vic.gov.au](http://www.shortcourses.vic.gov.au)

Holmesglen Institute of TAFE – short courses

Telephone (03) 9564 1590

[www.shortcourses.holmesglen.vic.edu.au](http://www.shortcourses.holmesglen.vic.edu.au)

Owner Building Solutions Australia Pty Ltd

Telephone 1800 777 996

[www.ownerbuilding.com.au](http://www.ownerbuilding.com.au)

South West TAFE (Warrnambool)

Telephone (03) 5564 8911

[www.swtafe.vic.edu](http://www.swtafe.vic.edu)

TAFE Virtual Campus

[www.tafevc.com.au](http://www.tafevc.com.au)

## Building information

Australian Owner Builders

Telephone (03) 9773 6333

[www.buildsafe.com.au](http://www.buildsafe.com.au)

Building Commission – Technical services

Telephone 1300 360 380

[www.buildingcommission.com.au](http://www.buildingcommission.com.au)

Building Practitioners Board

Telephone 1300 360 320

[www.buildingcommission.com.au](http://www.buildingcommission.com.au)

Home Ideas Centre

Telephone (03) 9544 9611

[www.homeideas.com.au](http://www.homeideas.com.au)

Timber Advisory Centre

Telephone (03) 9875 5010

[www.timber.asn.au](http://www.timber.asn.au)

## Building practitioner registration

Building Commission – Practitioner services

Telephone 1300 360 320

Building Commission – Technical services

Telephone 1300 360 380

[www.buildingcommission.com.au](http://www.buildingcommission.com.au)

Office of the Chief Electrical Inspector

Telephone (03) 9203 9758

[www.ocei.vic.gov.au](http://www.ocei.vic.gov.au)

Plumbing Industry Commission

Telephone 1800 015 129

[www.pic.vic.gov.au](http://www.pic.vic.gov.au)

## Building related disputes

Building Advice and Conciliation Victoria (BACV)

Telephone 1300 557 559

Building Appeals Board

Telephone (03) 9285 6400

[www.buildingcommission.com.au](http://www.buildingcommission.com.au)

Consumer Affairs Victoria

Telephone 1300 558 181

[www.consumer.vic.gov.au](http://www.consumer.vic.gov.au)

Victorian Civil and Administrative Tribunal (VCAT)

[www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

VCAT Civil Claims List

Telephone (03) 9628 9830

VCAT Domestic Building List

Telephone (03) 9628 9999

---

## Building design

Building Designers Association of Victoria

Telephone (03) 9639 2368  
[www.bdav.org.au](http://www.bdav.org.au)

## Occupational health and safety

Workcover

Telephone (03) 9641 1555  
[www.workcover.vic.gov.au](http://www.workcover.vic.gov.au)

## Insurance

Australian Home Warranty

Telephone 1300 300 115  
[www.austhomewarranty.com.au](http://www.austhomewarranty.com.au)

Building Industry Solutions

Telephone 1800 244 224  
[www.buildinginsurance.com.au](http://www.buildinginsurance.com.au)

Buildsafe

Telephone (03) 9773 5933  
[www.buildsafe.com.au](http://www.buildsafe.com.au)

HIA Insurance Services  
(Home Owner Warranty)

Telephone (03) 9666 0222  
[www.hiainsurance.com.au](http://www.hiainsurance.com.au)

## Taxation

Australian Taxation Office

Telephone 13 28 66  
[www.ato.gov.au](http://www.ato.gov.au)

## Energy efficiency

Sustainability Victoria

Telephone 1300 363 744  
[www.sustainability.vic.gov.au](http://www.sustainability.vic.gov.au)

## Asbestos

Environment Protection Authority Victoria

Telephone (03) 9695 2722  
[www.epa.vic.gov.au](http://www.epa.vic.gov.au)

Environmental Health Officer of your local council  
Environmental Health Unit

Telephone 1300 650 172  
[www.betterhealth.vic.gov.au](http://www.betterhealth.vic.gov.au)  
[www.dhs.vic.gov.au](http://www.dhs.vic.gov.au)

Department of Human Services

Telephone (03) 9641 1555  
[www.workcover.vic.gov.au](http://www.workcover.vic.gov.au)

## Building Standards

Australian Building Codes Board

Telephone 1300 857 522  
[www.abcb.gov.au](http://www.abcb.gov.au)

## Building Act and Regulations

Information Victoria

Telephone 1300 366 356  
[www.dms.dpc.vic.gov.au](http://www.dms.dpc.vic.gov.au)

# Glossary of terms

---

**Body corporate:** A person or group of persons with a separate legal personality typically created under Corporations Law, i.e. a company. The body corporate is not a property management company.

**Building Appeals Board:** An independent statutory body established under the *Building Act 1993* that determines disputes and appeals arising from the Act and *Building Regulations 2006* and deals with modifications to building legislation.

**Building Practitioners Board:** An independent statutory body established under the *Building Act 1993* that oversees the quality and standard of professional services in the Victorian building industry.

**Certificate of Consent:** Written approval from the Building Practitioners Board that enables an owner-builder to obtain a building permit and carry out domestic building work on his/her own land. Obtaining a Certificate of Consent does not guarantee you will be issued a building permit.

**Co-owner:** Where there are two or more people listed as owners on the certificate of title of the property.

**Domestic Building Contract:** Means a contract to carry out or to arrange or manage the carrying out of domestic building work other than a contract between a builder and a sub-contractor.

**Domestic building work:** Defined under the *Domestic Building Contract Act 1995* and includes the construction of a home, renovations, alterations, extensions, repairs or improvements to a home, demolition or removal of a home.

**In relation to or ancillary to:** Building or structures typically considered to be 'in relation to or ancillary to' a single home include (but are not limited to) carports, garages, pergolas, swimming pools, outbuildings which are not self-contained (i.e. have no kitchen or bathroom facilities), retaining structures, landscaping and fences.

**Owner:** In relation to a building, means the owner of the land on which a building is situated.

**Owner-builder:** A person who carries out building work on his or her own land. This generally does not include registered builders.

**Registered building practitioner:** A building practitioner who is registered with the Building Practitioners Board.

**Trust:** A relationship where property is held by one party (the trustee) for the benefit of another (the beneficiary).



# Application for a Certificate of Consent Checklist

To apply for a Certificate of Consent, you must:

- ☐ Read this owner-builder application kit
- ☐ Complete Section 1 – Applicant details
- ☐ Complete Section 2 – Details of the building work
- ☐ Complete Section 3 – Statutory declaration, including the applicant's signature and the signature of an authorised witness (see back cover)
- ☐ Complete Section 4 – Payment of fee and tax invoice
- ☐ Pay the application fee of \$75.00 (Section 4)
- ☐ Attach a copy of your current driver's licence or passport (as proof of identity)
- ☐ Attach a copy of the Certificate of Title
- ☐ Tear off the completed application form and send or deliver with any supporting documentation (address details in Section 4)



# Application for a Certificate of Consent

## SECTION 1: APPLICANT DETAILS

### Applicant's family name (as shown on the property title)

The person who wishes to become the owner-builder is known as the 'applicant'. For natural persons, the applicant's details must appear on the property title for the property that they wish to become an owner-builder for. Only one name is required.

### Given names (as shown on the property title)

Applicant's title (circle) Mr / Mrs / Miss / Ms / Dr / Other

Applicant's date of birth

### Residential details

### Postal details (write 'as above' if same as residential address)

### Contact details

☐ Include a copy of the applicant's current driver's licence or passport as proof of identity.

### Company / Body Corporate name (if applicable)

This is only applicable if you are the **director** of the company or body corporate that **owns** the land. A body corporate is not a property management company. See page 15.

### Trust name (if applicable)

This is only applicable if you are the **beneficiary** of a trust that the property is subject to. See page 15.

**Co-owner(s) details (as shown on the property title)**

All co-owners or trustees must be listed.

Co-owner 1	Family name	Given names	Title	Date of birth DD/MM/YYYY
Co-owner 2	Family name	Given names	Title	Date of birth DD/MM/YYYY
Co-owner 3	Family name	Given names	Title	Date of birth DD/MM/YYYY
Co-owner 4	Family name	Given names	Title	Date of birth DD/MM/YYYY

**Residential details of the co-owner(s)**

Co-owner 1	Number, Street name, Suburb, State, Postcode
Co-owner 2	Number, Street name, Suburb, State, Postcode
Co-owner 3	Number, Street name, Suburb, State, Postcode
Co-owner 4	Number, Street name, Suburb, State, Postcode

**Postal details of the co-owners(s) (write 'as above' if same as residential address)**

Co-owner 1	Number, Street name, Suburb, State, Postcode or P.O. Box
Co-owner 2	Number, Street name, Suburb, State, Postcode or P.O. Box
Co-owner 3	Number, Street name, Suburb, State, Postcode or P.O. Box
Co-owner 4	Number, Street name, Suburb, State, Postcode or P.O. Box

**Contact details of the co-owner(s)**

Co-owner 1	Mobile number	A/H Phone number	B/H Phone number	Fax number
Co-owner 2	Mobile number	A/H Phone number	B/H Phone number	Fax number
Co-owner 3	Mobile number	A/H Phone number	B/H Phone number	Fax number
Co-owner 4	Mobile number	A/H Phone number	B/H Phone number	Fax number

## SECTION 2: DETAILS OF THE BUILDING WORK

### 1. Property address (*the property that is to be owner-built*)

Number, Street name

Suburb

State

Postcode

Municipality

Lodged plan or plan of subdivision (*available on your Certification of Title*)

Volume (*available on your Certification of Title*)

Folio (*available on your Certification of Title*)

2. Are you the owner of this property? (*circle correct answer*)

Yes

No

3. Are you the director of the company / body corporate that owns this property? Do you have written authorisation from the company/body corporate to make this application and carry out the proposed building work?

(*circle correct answer*)

Yes

No

4. Are you the beneficiary of the trust that the property is subject to? Do you have written authorisation from each of the trustees of the trust to make this application and carry out the proposed building work?

(*circle correct answer*)

Yes

No

5. Description of all building work required on the property (*tick all that apply*)

☐

Construction of a new home

☐

Alteration to an existing home

☐

Construction of a garage

☐

Renovation of an existing home

☐

Construction of a car port

☐

Extension of an existing home

☐

Construction of a shed

☐

Change of use of an existing building

☐

Construction of a swimming pool

☐

Re-erection of a building

☐

Completion of works to a new dwelling



6. Provide a description of what you are building on this property:

7. Estimated cost of the building work as per your building permit application:

*Check with your building surveyor if your estimated cost is accurate. This is the cost if you were to engage a registered building practitioner and is to include the costs for all labour, materials and GST.*

\$

8. Are you engaging just one person to carry out all of the building work? *(circle correct answer)*

Yes

No

If yes, please provide their details: (Refer to page 7 - *Engaging builders and tradespeople*)

9. Are you engaging a person / a number of persons *(delete as appropriate)* to carry out part of the building work? *(circle correct answer)*

Yes

No

If yes, please provide their details: (Refer to page 7 - *Engaging builders and tradespeople*)

10. Does the building work on this property relate to a single home or dwelling? *(circle correct answer)*

Yes

No

11. Do you currently live in this single home or dwelling? *(circle correct answer)*

Yes

No

12. Do you intend to live in this single home or dwelling? *(circle correct answer)*

Yes

No

13. Do you intend to rent this single home or dwelling out? *(circle correct answer)*

Yes

No

14. Do you intend to sell this single home or dwelling? *(circle correct answer)*

Yes

No

If yes, when do you plan to sell?

15. Are you a Registered Building Practitioner? *(circle correct answer)*

Yes

No

If yes, what is your registration number?

*If you are a Registered Building Practitioner (commercial / domestic / demolition) or a registered architect, you do not require a Certificate of Consent in order to carry out work as an owner-builder.*

16a. Since 14 June 2005, have you been issued with a building permit to carry out domestic building work as an owner-builder on land that you (either individually, or as a company director, or beneficiary of a trust) have owned? *(circle correct answer)*

Yes

No

*If yes, please attach a copy of the building permit(s).*

16b. In the past three years, have you been issued with a building permit to carry out domestic building work as an owner-builder on land that you (either individually, or as a company director, or beneficiary of a trust) have owned? *(circle correct answer)*

Yes

No

*If yes, please attach a copy of the building permit(s).*

17a. Since 14 June 2005, has a building permit been issued to any co-owners of this property to carry out domestic building work as an owner-builder? *(circle correct answer)*

Yes

No

*If yes, please attach a copy of the building permit(s).*

17b. In the past three years, has a building permit been issued to any co-owners of this property to carry out domestic building work as an owner-builder? *(circle correct answer)*

Yes

No

*If yes, please attach a copy of the building permit(s).*

18a. Since 14 June 2005, have you been issued with a building permit to carry out domestic building work as an owner-builder on land that you have co-owned? *(circle correct answer)*

Yes

No

*If yes, please attach a copy of the building permit(s).*

18b. In the past three years, have you been issued with a building permit to carry out domestic building work as an owner-builder on land that you have co-owned? *(circle correct answer)*

Yes

No

*If yes, please attach a copy of the building permit(s).*

19. Based on the information provided above, are you applying for an exemption for a Certificate of Consent? (see note below) *(circle correct answer)*

Yes

No

#### Exemptions note

If you answered 'Yes' to any question from 16a to 19, the Building Practitioners Board may not be able to grant you a Certificate of Consent unless it grants an exemption.

#### You may apply for an exemption if:

- You have been issued with a building permit to carry out domestic building work on another property as an owner-builder after 14 June 2005.
- A co-owner has been issued with a building permit to carry out domestic building work on another property as an owner-builder after 14 June 2005.

#### How to apply for an exemption:

Attach written details of the special circumstances that exist since being issued with a building permit as an owner-builder:

- Include information regarding the substantial changes in your circumstance.
- Provide information/evidence of hardship that will arise if the application was refused.

### SECTION 3: STATUTORY DECLARATION

A statutory declaration is a statement or declaration which is sworn to be true by the applicant in the presence of an authorised witness with the consequence that the applicant is subject to the penalties of perjury if that statement or declaration is proved to be false.

Persons authorised to witness a statutory declaration include:

- A justice of the peace or bail justice
- A notary public
- A barrister and solicitor of the Supreme Court
- A member of the police force

For a complete list of persons authorised under the *Evidence Act 1958* to witness this statutory declaration, see page 24 or visit [www.justice.vic.gov.au](http://www.justice.vic.gov.au).

I,  (full name of applicant) of   
(full residential address of applicant) in the State of Victoria do solemnly and sincerely declare that:

- The information contained in this Application for a Certificate of Consent is true and correct;
- I am the owner of the land on which this application applies;
- I have read this Application Kit and understand the obligations, risks and responsibilities of an owner-builder.

I acknowledge that this declaration is true and correct and I make it in the understanding that a person making a false declaration is liable to the penalties of perjury.

Signature of person making declaration

Declared at  in the State of Victoria

on the  day of  200 .

Before me,

Signature of Witness

Print name

Address

Qualification / Status

It is a punishable offence under section 246 of the *Building Act 1993* for any person to knowingly make a false or misleading statement or to provide any false or misleading information to a person or body carrying out any function under the Act.

## SECTION 4: PAYMENT OF FEE AND TAX INVOICE

Application fee: **\$75.00**

Payment methods:	In person	By mail
	Building Practitioners Board	Building Practitioners Board
	Level 27, Casselden Place	PO Box 536E
	2 Lonsdale Street	Melbourne VIC 3001
	(Cnr Spring & Lonsdale Streets)	
	Melbourne VIC 3000	

Payment can be made by cheque, money order or credit card:

☐ A cheque or money order for \$75.00 is enclosed. (Cheques should be made payable to: 'Building Administration Fund' and are subject to a five-day clearance period.)

Please debit my credit card:

☐ Visa ☐ Mastercard ☐ Bankcard

Credit card number:

Expiry date:

Cardholder's name:

Cardholder's signature:

Date:

ABN 54 503 799 763

### Payment notes

- Owner-builder certificate application fees are GST exempt under Division 81 of GST legislation. Please keep a copy for your records. Upon payment, this becomes a Tax Invoice.
- All application fees, regardless of the outcome, are non-refundable.
- Once this form has been correctly completed and submitted, the application will take two to three weeks to complete. Please ensure that all the relevant and correct details are included. Supplying incomplete information will add to the application process time.



# List of persons authorised to witness

The following persons are authorised under the Evidence Act 1958 to witness the signing of a statutory declaration:

- A Justice of the Peace or Bail Justice
- A Public Notary
- An Australian lawyer (within the meaning of the *Legal Profession Act 2004*)
- A clerk to an Australian lawyer
- The Prothonotary or Deputy Prothonotary of the Supreme Court, the Registrar or a Deputy Registrar of the County Court, the Principal Registrar of the Magistrates' Court or a Registrar or Deputy Registrar of the Magistrates' Court
- The Registrar of Probates or an Assistant Registrar of Probates
- The Associate to a Judge of the Supreme Court or of the County Court
- The Secretary of a Master of the Supreme Court or of the County Court
- A person registered as a Patent Attorney under chapter 70 of the *Patents Act 1990* of the Commonwealth
- A member of the police force
- The sheriff or a deputy sheriff
- A member or a former member of either House of the Parliament of Victoria
- A member or a former member of either House of the Parliament of the Commonwealth
- A councillor of a municipality
- A senior officer of a Council as defined in the *Local Government Act 1989*
- A registered medical practitioner within the meaning of the *Medical Practice Act 1994*
- A registered dentist within the meaning of the *Dental Practice Act 1999*
- A veterinary practitioner
- A pharmacist
- A principal in the teaching service
- The manager of an authorised deposit-taking institution
- A member of the Institute of Chartered Accountants in Australia or the Australian Society of Accountants or the National Institute of Accountants
- The secretary of a building society
- A minister of religion authorised to celebrate marriages (not a civil celebrant)
- A person employed under Part 3 of the *Public Administration Act 2004* with a classification that is prescribed as a classification for statutory declarations or who holds office in a statutory authority with such a classification
- A fellow of the Institute of Legal Executives (Victoria).



### **Need more information?**

Telephone +61 3 1300 360 320 Facsimile +61 3 9285 6464

Level 27, 2 Lonsdale Street, Melbourne, Victoria, 3000

[bpb@buildingcommission.com.au](mailto:bpb@buildingcommission.com.au)

[www.buildingcommission.com.au](http://www.buildingcommission.com.au)

