

Building Practice Note 78

Before issuing a building permit, the relevant building surveyor must ensure that the person to be specified as builder on the building permit complies with section 24A and 24B of the Building Act 1993 (the Act).

This Practice Note provides guidance for building surveyors on:

- The further limitations of issuing a building permit as prescribed in Part 3, section 24A of the Act
- Specifications of builders in relation to specific building work as prescribed in Part 3, section 24B of the Act
- Relevant responsibilities of the relevant building surveyor



If you are a practitioner seeking information regarding when a building permit is required, please refer to Practice Note 32

Building Permit Requirements

The Relevant Building Surveyor (RBS) must not issue a building permit unless they are satisfied that it complies with the Act and Regulations. Section 24A and 24B of the Act imposes further limitations on the issue of building permits and who can be specified as the builder.

Section 24A - Further Limitations Checklist

As the RBS, you must not issue a building permit unless you are satisfied the requirements of section 24A are met, that are:

- the building work is to be carried out by a builder who is specified under section 24B for that work; and
- the builder is named in the building permit; and
- in the case of building work carried out under a major domestic building contract, if the cost of the building work exceeds \$16,000:
 - if the builder is not a member of partnership, the name of the builder in the contract is identical to the name of the builder in a certificate of insurance; or
 - if the builder is a member of a partnership, the name of the builder and name of the partnership on the contract is identical to the name of the builder and name of the partnership in a certificate of insurance; and
- the major domestic building contract was entered into by a person entitled to do so under section 29 of the *Domestic Building Contracts Act 1995*; and
- in the case of a builder who is a body corporate, the building permit specifies the name of a natural person on whom directions, notices and orders under the Act directed to the body corporate can be served.

Further considerations-

The Regulations may specify the way the RBS may be satisfied with the matters prescribed in Section 24A, subsection (1)(c)(i) of the Act. Regulation 36A specifies that you may examine:

- An extract of the major domestic building contract, showing the names of the parties to the contract in relation to the proposed building work; and
- A copy of the certificate of insurance from an insurer providing the required insurance in relation to the proposed building work.

If the builder is carrying out domestic building work under a major domestic building contract, Form 1 in Schedule 4 of the Building Regulations 2018 requires the applicant for a building permit to attach an extract of the major domestic building contract showing the names of the parties to the contract in relation to the proposed building work and a copy of the certificate of insurance, where applicable (that is, where the cost of the building work exceeds \$16,000).

Section 24B - Specifications of Builder Checklist

The RBS must only issue a building permit where the building work is to be carried out by a builder who is specified under section 24B of the Act. This depends on the type of building work and cost of the building work:

Any type of building work \$10,000 or less:

- A building practitioner (unregistered or registered); or
- The owner of the building or land in or on which the building work is to be carried out; or
- An architect who is registered under the *Architects Act 1991*

Non-domestic building work more than \$10,000:

- A registered building practitioner other than a provisionally registered building practitioner; or
- A provisionally registered building practitioner if their registration authorises the carrying out of all the building work under the proposed permit; or
- The owner of the building or land in or on which the building work is to be carried out; or
- An architect who is registered under the *Architects Act 1991*

Domestic building work under a major domestic building contract:

- The builder who entered into that contract; and
- Be registered, other than provisionally registered, under Part 11 of the Act, and whose registration authorises the carrying out of the work.

Domestic building work not under a major domestic building contract and the cost of work exceeds \$10,000 but is \$16,000 or less:

- The owner of the building or land in or on which the building work is to be carried out.

Domestic building work not under a major domestic building contract and the cost of the work exceeds \$16,000:

- An owner issued with an owner builder certificate of consent for the work; or
- An owner who is a registered building practitioner, other than a provisionally registered building practitioner, who is authorised to carry out the work; or
- An owner who is an architect registered under the *Architects Act 1991*; or
- The owner is the Director of Housing; or
- An owner carrying out work in accordance with an emergency order, a building notice or a building order.

Further considerations-

For section 24B, the cost of building work is the cost of work estimated under Subdivision 4 of Division 2 of Part 12 of the Act. This is the cost of work estimated by the relevant building surveyor to determine the amount of levy to be paid.

Related Documentation

- Building Act 1993 (VIC), Version no. 129
- Building Regulations 2018 (VIC), Version no. 013

Contact Us

If you have a technical query, please email technicalenquiry@vba.vic.gov.au or call 1300 815 127