

*This updates the previous practice note-PN 56-2018 issued June 2018.*

## Purpose

To provide guidance on the requirements for persons wanting to undertake domestic building work on their own land as a builder.

## Background

To ensure that building work is carried out in accordance with minimum safety and amenity standards, the *Building Act 1993* (the Act) regulates who can design and construct building work in Victoria.

The Act specifies who must be appropriately registered to be issued a building permit and undertake building work. An owner of the land may undertake domestic building work on a single dwelling or an ancillary building as the builder. Where the value is more than \$16,000, they must obtain a certificate of consent from the VBA.

Owner-builders must carry out domestic building work in compliance with the Act, Building Regulations 2018 (the Regulations), National Construction Code 2019 (NCC), all relevant standards and the building permit. They assume the responsibilities, risks and liabilities of a registered building practitioner.

The requirements are designed to ensure that:

- owner-builders have sufficient knowledge to undertake the work;
- people who are in the business of building and should otherwise be registered as a building practitioner are exempted; and
- purchasers of buildings which have been built or altered by owner-builders are provided protection.

## Definitions and Abbreviations

The following definitions and abbreviations referenced do not intended to vary the definitions set out in the Act or Regulations or NCC.

### Abbreviations

**The Act** - Building Act 1993

**RBS** - Relevant Building Surveyor

**DBC Act** - Domestic Building Contracts Act 1995

**The Regulations** – Building Regulations 2018

**NCC** – National Construction Code

**Owner** - Owner of the land

### Definitions

**Owner-builder** is a person who carries out domestic building work on their own land, who is not in the business of building, and intends to reside in the building.

If the land is owned by a body corporate or is the subject of a trust, the owner-builder must be a director of the body corporate or a beneficiary of the trust.

**Domestic building work** is defined as work that includes, but not limited to: the erection or construction of a home;

- the renovation, alteration, extension, improvement or repair of a home (including associated works); and
- any building work associated with the construction or erection of a building on land zoned for residential purposes for which a building permit is required.

**Certificate of consent** is a written approval from the VBA that must be obtained by an owner-builder before a building permit is obtained and carry out work where the value is more than \$16,000.

The certificate of consent:

- can only be obtained to build or alter a **single dwelling** or ancillary building on the land (allotment);
- does not guarantee the issue of a building permit;
- must specify details of the land, type of building work; and
- detail all the owners of the property; and
- detail the estimated cost of building work;
- will expire if:
  - a building permit has not been obtained within 12 months (or a longer prescribed period); or
  - the building permit lapses, or
  - the owner ceases to own the land to which the certificate relates too.

A certificate of consent cannot be issued if an owner has obtained a building permit as an owner-builder in the previous 5 years on land that is not the land on which the current application for consent applies to.

## Relevant Building Surveyor Responsibilities

When considering a building permit application for domestic building work that has a total value more than \$16,000 (or other prescribed amount) section 24A of the Act provides that the RBS must be satisfied that:

- the work is to be carried out by a builder who is registered in the appropriate category and can provide a major domestic building contract to the owner; or
- the work is to be carried out by a registered builder in the appropriate category or architect on land that they own;
- the work is to be carried out by an owner-builder who has been issued with a certificate of consent; or
- the applicant is the Director of Housing within the meaning of the *Housing Act 1983*.

The RBS should check for consistency between the information provided in the building permit application and the certificate of consent including:

- the address of the land on which the domestic building work is to be carried out;
- the name(s) of the property owner and the person issued with the certificate of consent; and
- the description of the domestic building work proposed.

The RBS must also:

- confirm the nominated builder on the building permit and the total cost of works to establish if an owner-builder certificate of consent is required;
- record the details of all registered building practitioners engaged by the owner-builder on the building permit, occupancy permit or certificate of final inspection;
- where notified that an owner will be taking over building work that was being carried out by a registered builder, confirm that a valid certificate of consent has been issued to the owner-builder for the remaining work e.g. at lock-up stage.

## Responsibilities of the owner-builder

Prior to applying for a certificate of consent, the owner should consult their RBS to confirm the correct cost of work and description of work that is to appear on the certificate of consent. Once a certificate of consent is issued, it will not be amended to reflect a building permit.

An owner-builder must provide the RBS with a related certificate of consent. In order to be issued with a certificate of consent, an owner must satisfy the VBA that they have the prescribed knowledge of the duties and responsibilities of an owner-builder as per Schedule 2 to the Regulations.

When an owner-builder engages a person to undertake any domestic building work, that person must comply with the Act, Regulations and the *DBC Act*. Therefore, if the value of the work is over \$10,000, the person must be registered and provide the owner-builder with a

major domestic building contract. If the value of their work is over \$16,000 the contractor must also carry required domestic builder insurance for their work.

The owner-builder **must not** carry out plumbing or electrical work, unless licensed to carry out this work. They must engage registered or licensed plumbers and electricians for this work.

The owner-builder should retain the names and insurance details of all registered practitioners engaged. If a change of builder occurs for a building permit issued before 1 July 2019, both the owner-builder and the registered builder must give written notice to the RBS. If a change occurs for a building permit issued after 1 July 2019, only the owner is required to notify the RBS.

The owner-builder is also responsible for displaying their contact and building permit details in a conspicuous position on the building site that is accessible to the public.

## Builder and trade contractor responsibilities

Where a builder or trade contractor agrees to undertake work for an owner-builder and the value of the work is over \$10,000, the contractor must:

- be a registered building practitioner; and
- enter into a major domestic building contract that complies with the requirements of section 31 of the *DBC Act*.

If the value of the work is over \$16,000, the contractor must also provide required domestic building insurance for their part of the building work.

If a builder is appointed by an owner-builder or stops working for the owner-builder after a building permit has been issued, the builder must notify the RBS within 14 days of the appointment or termination of appointment.

Trade contractors include:

- carpenters
- bricklayers
- concreters
- roof tilers
- swimming pool installers
- cabinet makers and kitchen contractors

- re-stumpers
- re-roofers
- bathroom renovators
- house re-locators and demolishers.

Trades that are exempt from the requirements of the *DBC Act* include trades providing only one of the following types of work:

- attaching external fixtures (including awnings, security screens, insect screens and balustrades).
- installing floor coverings
- insulating
- plumbing
- electrical
- painting
- wall and floor tiling
- glazing
- plastering
- erection of a chain wire fence to an enclosed tennis court
- erection of a mast, antennas, aerial or similar structure.

Where a contractor undertakes or arranges more than one type of work (and the value of the combined work exceeds \$10,000), the exemption does not apply.

Electricians and plumbers must be appropriately registered or licensed and insured under the Act or *Electrical Safety Act 1998*.

## On-selling land owned by an owner builder

If the owner-builder ceases to own the land the building permit relates to, the permit is therefore suspended from the day the land changes ownership. Any certificate of consent issued on the land will expire on this day.

Where the new owner wishes to undertake any outstanding building work as an owner builder, they must notify the RBS. A new certificate of consent to carry out the remainder of the building works must be provided to the RBS. The new owner-builder must also provide the name and address of any other person issued with a certificate of consent. The notification must contain any information requested by the RBS. If the notice is compliant and all relevant documentation is provided, the RBS may change the builder's named on the building permit.

The RBS must lodge a notice with the relevant council within 7 days of amending the building permit with the new owner-builder's details.

An owner-builder who constructs a building must not enter into a contract to sell that building within the prescribed period (usually 6 years and 6 months) without the required insurance and a valid report from a prescribed building practitioner.

Domestic building work undertaken by an owner-builder may be subject to inspection or investigation by the VBA.

## Further information

### Want to know more?

If you have a technical enquiry, please email [technicalenquiry@vba.vic.gov.au](mailto:technicalenquiry@vba.vic.gov.au) or call 1300 815 127.

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