

# Becoming an owner-builder

An owner-builder is an individual who does owner-builder work and holds a permit for that work under the authority of a permit issued by the Office of Fair Trading.

## What is owner-builder work?

Owner-builder work is any work (including supervision and co-ordination) involved in the construction of, or alterations, repairs or additions to, a dwelling (which includes a house, terrace, town-house, garage, swimming pool and certain other structures and improvements):

- where the reasonable market cost (including labour and materials) exceeds \$5,000, and
- which relates to a single dwelling or dual occupancy:
  - that requires development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*, or
  - that is a complying development within the meaning of that Act.

## What are my responsibilities as an owner-builder?

As an owner-builder, you are responsible for:

- overseeing and supervising all tradespeople
- ordering of materials and management of the building site
- obtaining all necessary council and authority approvals
- ensuring that the financial, taxation and insurance requirements of the building work are met and fully comply with all laws
- being aware of your obligations under the *Workers Compensation Act 1987* and *Occupational Health and Safety Act 2000* and providing a safe work environment that complies with WorkCover requirements
- ensuring any contractor engaged is appropriately licensed and insured to do the work contracted for
- warranting that the work and materials will be fit for the purpose and that the work results in a dwelling fit for occupation.

Do your sums before you start and ask yourself if any saving you will make is worth the time and responsibility it will take. As an owner-builder you are guaranteeing the work you undertake.

It is an offence under the Home Building Act (maximum penalty \$22,000) for the holder of an owner-builder permit to:

- knowingly engage an unlicensed contractor
- lend your permit to another person
- refuse to disclose to an authorised officer the names and addresses of contractors working on the site.

If you don't want the responsibility of being an owner-builder, you should be wary of a builder who suggests you obtain an owner-builder permit while they do all the building work for you. This may be a ploy where the builder is shirking responsibility, is unlicensed, or is unable to get necessary insurance.

## How do I get an owner-builder permit?

To get an owner-builder permit, you must lodge a completed owner-builder permit application at a Fair Trading Centre and show that:

- you are over 18 years old
- you own the land or have a prescribed interest in the land (certificate of title or rate notice)
- you live or intend to live in the completed home or one dwelling of the dual occupancy as your principal residence.

You must also provide:

- a description and address of the proposed work with a copy of the plans and council development application number or complying development certificate number
- the owner-builder permit application fee
- where the value of the proposed work is over \$12,000, evidence that you have either completed an approved owner-builder course, or can satisfy the approved equivalent qualifications.

A permit cannot be issued for work that has already commenced.

For information on approved owner-builder courses and equivalent qualifications, the following publications are available:

- *Owner-builders approved courses*
- *Owner-builders approved equivalent qualifications.*

There are no exemptions from the need to complete a course unless you hold an approved equivalent qualification.

A spouse or relative will not be issued with an owner-builder permit for their partner's or family's land.

Also, there are specific rules for applicants where a company owns the land. Contact Fair Trading for details.

## What are my limitations under an owner-builder permit?

An owner-builder permit is not a building licence. It does not allow you to:

- do work other than the project covered by the development application or complying development certificate
- do specialist work such as electrical, plumbing, gasfitting, air-conditioning and refrigeration work (unless you hold a licence for such work).

Only one owner-builder permit can be issued within any 5-year period, unless the application and any earlier permit relate to the same land, or unless special circumstances exist.

## Approvals needed for building work

Most building work needs the following approvals before work can start.

### Development consent or Complying Development Certificate (CDC)

Your local council can issue a development consent. If a CDC is permitted for the type of development you

propose under the council's local plan, it can be issued by either your local council or an accredited certifier.

### Construction approval

Approval for the work (a construction certificate) can be given by either your local council or an accredited certifier.

**Note:** You do not need a construction certificate if you have a CDC.

During construction, the building work must also be inspected by council or an accredited certifier to check that it meets national building standards (the Building Code of Australia).

A certificate to allow occupation or use of the completed building work (occupation certificate) can only be issued if the work generally meets these standards.

More information about building work approvals and choosing a certifying authority is available in the *Consumer building guide*. Copies are available from the publications (building) page on the Fair Trading website, Fair Trading Centres or by calling 13 32 20.

You can also get more information about the approvals process and choosing a certifying authority from the Building Professionals Board, at [www.bpb.nsw.gov.au](http://www.bpb.nsw.gov.au) or by calling 9895 5950.

## Use licensed tradespeople

All tradespeople (whether contracting directly with home owners or sub-contracted through a builder), who undertake residential building work costing over \$1,000 (labour and materials), must hold a licence from the Office of Fair Trading for the type of work they are to do. Specialist tradespeople who carry out any of the following must be licensed regardless of the cost of the work:

- electrical wiring
- plumbing, draining and gasfitting work
- air conditioning and refrigeration work (except plug-in appliances).

Once you find a tradesperson and before you sign any contract, don't forget to:

- ask to see their licence
- go to the online licence check on the Fair Trading website to make sure it is current, valid and suitable for the work you want done, or call Fair Trading and do a licence check over the phone.

## Contracts

By law, all building trade contractors doing residential building or any specialist work valued over \$1,000 must provide a contract in writing to the home owner.

As an owner-builder, you will probably be entering into several contracts with different tradespeople.

Once you decide to go ahead with a tradesperson, they should give you a written contract. You should make sure you understand it fully before signing.

For more information, refer to the Contracts page on the Fair Trading website.

### Fair Trading building contracts

The Office of Fair Trading has developed the following home building contracts:

- *Home building contract for work under \$25,000*
- *Home building contract for work over \$25,000 and all residential swimming pools.*

These contracts, which are fair to both parties and written in plain English, are available free of charge and can be accessed from the Fair Trading contracts page on the Fair Trading website.

## Home warranty insurance

Each licensed contractor (builder, tradesperson or project manager) who contracts directly with an owner-builder to undertake residential building work must provide home warranty insurance from one of the approved insurance providers when the total contract sum exceeds \$12,000 (including material supplied by the contractor). The certificate of insurance should be provided to the owner-builder before taking any money on the contract and before starting any work. For more information, refer

to the Home warranty insurance page on the Fair Trading website.

### Selling an owner-builder built home

Should an owner-builder decide to sell their home within 6 years after completion of the work, the owner-builder will need to take out home warranty insurance where the market value of the whole project (including labour and materials) was valued at over \$12,000. For home warranty insurance purposes, owner-builder work is taken to have been completed on the date of the final inspection by the principal certifying authority or (if there is no such final inspection), 6 months after the issue of the owner-builder permit for the work.

The contract for sale must:

- include a note that an owner-builder permit was issued in relation to the work carried out
- have the home warranty insurance certificate attached.

If home warranty insurance is not arranged, the purchaser can void the sale contract before settlement. The home warranty insurance scheme provides protection to a subsequent purchaser (successor in title) of a property where the purchaser is unable to have any defective owner-builder work (not apparent at the time of purchase) rectified because of the death, disappearance or insolvency of the owner-builder.

Between 1 May 1997 and 28 February 2007, the minimum cover that had to be provided under a contract of insurance was \$200,000. From 1 March 2007, the minimum cover has been increased to \$300,000.

The approved insurers and their brokers that provide home warranty insurance to owner-builders are listed under the Approved insurers page on the Fair Trading website.

**Warning!** - As an owner-builder you are guaranteeing the work you undertake. A person who is a successor in title to an owner-builder is entitled to the benefit of statutory warranties set out in the *Home Building Act 1989* (and implied into a building contract) as if the owner-builder were required to hold a contractor licence

as a builder and had done the work under a contract with the successor in title.

If you should decide to sell within the 6-year period, make sure you contact the insurers well in advance of marketing your property to check their requirements for insurance.

## Other insurances

The following are some of the other insurances that owner-builders might need to take when doing home building work.

### Workers compensation insurance

Owner-builders should take out a workers compensation insurance policy and ensure that they are fully covered in respect of persons they engage to carry out work. Any contractors engaged by an owner-builder may be deemed to be a worker of that owner-builder.

For more information about workers compensation insurance, contact WorkCover [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) or call 13 10 50.

### Contract works insurance

This insurance should be obtained by builders and trade contractors. It is for your protection and covers loss or damage to materials and work. If the builder or trade contractor does not have this type of insurance, you may risk inconvenience, time delays and disputes if materials are damaged or stolen.

### Public liability insurance

If you intend to be an owner-builder or to contract out any type of building work (for which you remain responsible for co-ordinating), it is strongly recommended that you take out a public liability insurance policy.

This covers you if a family member or member of the public is injured as a result of the building work. You could be liable because you own the property.

## False or misleading information with your application

Prosecution may occur if you make a false statement or omit information in an application for an owner-builder permit. Prosecution can occur under the *Crimes Act 1900*:

- section 307A (false or misleading applications)
- section 307B (false or misleading information).

## Dispute handling

Fair Trading offers a range of services that can help you avoid or resolve disputes with your contractors. Refer to the Resolving building disputes page on the Fair Trading website for more information or call 13 32 20.

## Sources of information

For more information about becoming an owner-builder, contact Fair Trading on 13 32 20 or visit our website. Other sources of information include:

- your local council or government agencies such as the Department of Planning and the Building Professionals Board
- building centres, material suppliers, professional builders
- useful books and magazines at your local bookshop or library
- websites dedicated to owner-building
- approved owner-builder courses.

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)  
Fair Trading enquiries 13 32 20  
TTY 1300 723 404  
Language assistance 13 14 50

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.

© State of New South Wales through NSW Fair Trading  
You may freely copy, distribute, display or download this information with some important restrictions. See NSW Fair Trading's copyright policy at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or email [publications@services.nsw.gov.au](mailto:publications@services.nsw.gov.au)