

Becoming an owner-builder

An owner-builder is an individual authorised to do owner-builder work under a permit issued by NSW Fair Trading.

What is owner-builder work?

Owner-builder work is any work (including supervision and coordination) involved in the construction of, or alterations, repairs or additions to, a dwelling:

- where the reasonable market cost (including labour and materials) exceeds \$10,000, and
- which relates to a single dwelling-house, dual occupancy* or a secondary dwelling:
 - 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.

***Note:** an owner-builder permit will only be issued regarding a dual occupancy in cases of special circumstances.

Should I do owner-builder work?

An owner-builder permit is designed to allow people who have the skill or capacity to build their own house or supervise construction by coordinating appropriate sub-contractors. While an owner-builder permit is not a builder's licence, as an owner-builder, you are responsible for the building work as a fully licensed builder would be.

Taking out an owner-builder permit significantly impacts on you as the property owner and permit holder. Under the permit, you become ultimately responsible for managing and coordinating the completion of the building work. You must still engage licensed contractors to complete any specialist work related to the construction. For any other work, you must ensure the tradesperson is appropriately licensed for the scope of work needed. Learn more regarding different tradespeople at our Licence classes and qualifications web page.

If you don't want this responsibility, 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.

Warning! - As an owner-builder you are guaranteeing the work you undertake. The next immediate owner of the property is entitled to the benefit of the statutory warranties set out in the *Home Building Act 1989*.

What are my responsibilities?

As an owner builder, you are responsible for:

- overseeing and supervising all tradespeople
- ordering materials and managing 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 the *Work Health and Safety Act 2011* to provide a safe work environment that complies with WorkCover requirements. Significant penalties may apply if you don't meet this obligation. Our Dealing with hazardous materials web page has more information on some possible risks, such as asbestos and lead
- ensuring any contractor engaged is appropriately licensed and insured to do the work contracted for
- warranting that the materials and work will be fit for the purpose and result in a dwelling that can be occupied.

Do your sums before you start and ask if any saving you will make is worth the time and responsibility it will take.

It is an offence under the *Home Building Act 1989* (maximum penalty \$22,000) for the holder of an owner-builder permit to:

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

Do I need an owner-builder permit?

An owner-builder permit is not needed where:

- the market value (labour and material) of the residential building work is less than \$10,000
- the work does not require development consent.

To be eligible for an owner-builder permit, the development approval must be in respect of a single dwelling-house or a secondary dwelling. In special circumstances dual occupancies may be approved.

An owner-builder permit cannot be issued for:

- renovations to an existing apartment/unit/flat/townhouse within a strata complex
- property not for residential purposes.

How do I get an owner builder permit?

To get an owner-builder permit, you must lodge a completed owner-builder permit application in person at a Service NSW centre.

To determine if you need an owner-builder permit and the application form to use, view the Owner-builder self assessment tool page on the Fair Trading website.

The application form for an owner-builder permit can also be downloaded from the Australian Business and Licence Information Service website. Use the self assessment tool first before completing your application.

When lodging your application form you **must** also attach copies of the following documents, together with proof of identity requirements and the owner-builder permit application fee:

- evidence of ownership or a registered lease with Land and Property Information
- development consent (development application (DA) approval or complying development certificate (CDC) approval) from a certifying authority (council or private certifier) for the subject building site

- a current general construction induction training card (within the meaning of the Work Health and Safety Regulation 2011), also referred to as Workcover Whitecard
- if the work is over \$20,000 in value, a Certificate in Owner Builder Compliance 91509NSW.

For the current general construction induction training card (Item 3 above), Fair Trading will also accept a WorkCover Statement of Training, issued within the 60 days prior. This acknowledges that it may take up to 60 days to issue the general construction induction cards once you have completed the relevant training.

Fair Trading will also accept, in certain circumstances, interstate general construction induction training cards or cards issued in NSW under previous arrangements that are recognised under Work Health and Safety laws.

To find out more go to this page's *Related information* to access the Statement of Regulatory Intent issued by the Commissioner for Fair Trading.

The following Fair Trading web pages (also available as fact sheets) provide more information regarding course 91509NSW and if an applicant is eligible to be exempted from the approved course:

- *Owner-builder approved education course*
- *Owner-builder equivalent accreditation.*

What are my limitations under the 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
- specialist work such as electrical, plumbing, gasfitting, airconditioning 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 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 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 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.

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.

For more information about building work approvals and choosing a certifying authority visit our *Consumer building guide* web page to view or download our *Consumer building guide*.

You can also find out more about the approvals process and choosing a certifying authority from the Building Professionals Board at www.bpb.nsw.gov.au or by calling 9895 5950.

Use licensed tradespeople

Tradespeople (whether contracting directly with home owners or sub-contracted through a builder), who do home building work costing over \$5,000 (labour and materials), must hold a Fair Trading licence for the type of work they are to do. Regardless of the work's cost, specialist tradespeople must be licensed for doing:

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

Before you sign any contract, don't forget to:

- ask to see a tradesperson's licence
- use the 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

When entering into contracts with a licensed tradesperson, refer first to our Contracts web page.

Insurance under the Home Building Compensation Fund

Does the total contract sum exceed \$20,000 (including material supplied by the contractor)? If so, each licensed contractor (builder or tradesperson) who contracts directly with an owner-builder to do residential building work must provide insurance under the Home Building Compensation Fund (previously called Home Warranty Insurance) from an approved insurance provider.

You as the owner-builder should receive a copy of the certificate of insurance before:

- work starts
- you pay any money.

For details see our Home Building Compensation Fund web page.

Selling an owner-builder built home

Insurance under the Home Building Compensation Fund is no longer available for owner-builder work done by an owner-builder. Should an owner-builder or a successor in title to that person decide to sell their home within 7 years and 6 months after an owner-builder permit was issued, the contract for sale must include a note (a consumer warning) stating that: an owner-builder permit was issued in relation to the land on the date it was issued.

Work done under an owner-builder permit is not required to be insured under the *Home Building Act 1989* unless the work done by a contractor to the owner-builder is worth more than \$20,000.

If the consumer warning is not included in the contract of sale, the purchaser can void the sale contract before settlement.

Warning! - As an owner-builder you are guaranteeing the work you undertake. The next immediate owner of the property is entitled to the benefit of the statutory warranties set out in the *Home Building Act 1989*, and can take you, the owner builder, to the NSW Civil and Administrative Tribunal to enforce their statutory warranty rights. This may result in a money order against you.

Other insurances

Consider other insurances you may need as follows.

Workers compensation insurance

Owner-builders should take out a workers compensation insurance policy and ensure that they are fully covered for people 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 at 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 coordinating), 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

You may be prosecuted under the following sections of the *Crimes Act 1900* if you falsely state or leave out information in an application for an owner-builder permit:

Under s.307A of the *Crimes Act 1900* a person is guilty of an offence if she/he makes a false or misleading statement in an application for an authority or benefit. The penalty for false or misleading application is imprisonment for 2 years, or a fine of \$22,000 or both.

Under s.43(1) of the *Home Building Act 1989* the Commissioner may cancel a permit if it is later discovered that a permit holder misrepresented information in their permit application.

Dispute handling

We offer services that may help you avoid or resolve disputes with your contractors. For details see our Resolving building disputes web page or call 13 32 20.

Sources of information

For more information contact us on 13 32 20 or refer to our website. You may also seek information from:

- your local council or government agencies such as the Department of Planning and Infrastructure and the Building Professionals Board
- building centres and professional builders
- books, magazines and websites on owner-building
- the approved owner-builder course.