


## Occupational Licensing (Building Services Work) Determination

I, Peter John Graham, in my capacity as Administrator of Occupational Licensing, and acting pursuant to sections 27, 29B, 29F, 30, 31 and 53 of the *Occupational Licensing Act 2005*, hereby make the following Determination:

<b>Title</b>	<b>Occupational Licensing (Building Services Work) Determination</b>
<b>Description</b>	This Determination establishes requirements for: <ol style="list-style-type: none"> <li>1. Licensing of building services providers;</li> <li>2. Owner-builder permits and authorisation of owner-builder training providers;</li> <li>3. Insurance of building services providers and owner-builders; and</li> <li>4. Conduct of building services providers through Codes of Practice.</li> </ol>
<b>Version</b>	Version 2.1
<b>Application</b>	This Determination applies from the date of its notification in the Gazette until its amendment or revocation. The Occupational Licensing (Building Services Work) Determination Version 2.0 ceases to have effect from the commencement date of this Determination.
<b>Date of Administrator's approval</b>	15 December 2021
<b>Commencement date</b>	1 January 2022



Peter John Graham  
**Administrator of Occupational Licensing**  
Consumer, Building and Occupational Services  
Department of Justice

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## Document Development History

Version	Application Date	Sections amended
2.1	1 January 2022	Addition of Planning Consultant under Part 5.
2.0	7 August 2019	Completely revised and re-released, including all licensing requirements for Building Services Providers
1.2	2 January 2019	Amended by insertion of new Permit Authority licensing requirements
1.1	8 February 2017	Amended by insertion of new provisions for owner-builders of Class 10 structures
1.0	7 December 2016	Initial Determination adopting the Scheme for the Accreditation of Building Practitioners 2008 and the Ministerial Insurance Order 2008, with amendments, under the <i>Occupational Licensing Act 2005</i> .

### Documents superseded by this Determination:

1. Scheme for the Accreditation of Building Practitioners 2008
2. Ministerial Insurance Order 2008
3. Occupational Licensing (Building Services Work) Determination 2017
4. Occupational Licensing (Building Services Work - Permit Authority) Determination 2018
5. Occupational Licensing (Owner-builder Permit) Determination 2018



## Definitions used in this Determination

**“Act”** means the *Occupational Licensing Act 2005*

**“Administrator”** means the person appointed under section 10 of the Act as the Administrator of Occupational Licensing

**“Area of competence”** means a specific area of skill for which a building services provider is qualified, experienced and capable of undertaking

**“Audit”** means a process performed by the Administrator to inspect the work of, or to measure the conduct or practices, of building services providers

**“Builder”** concerning building work or demolition work means a person engaged to manage or carry out building work or demolition work by the owner of premises where the work is to be performed

**“Building”** has the same meaning as given by section 4 of the *Building Act 2016*

**“Building Act”** means the *Building Act 2016*

**“Building Services Provider”** has the same meaning as given by section 3 of the Act; and for this Determination, is a licence holder for an occupation or type of work applicable to one or more of the categories or classes of licences established by this Determination

**“Building Surveyor”** has the same meaning as given by section 4 of the *Building Act 2016*

**“Building Work”** has the same meaning as given by section 4 of the *Building Act 2016*

**“Category”** concerning a licence established by this Determination means an occupation or type of work that is prescribed as building services work

**“Class”** concerning a licence category established by this Determination means a subordinate classification within a particular licence category

**“Class”** concerning a type of building or structure means the classification system used in the National Construction Code

**“Code of Practice”** has the same meaning as given by section 3 of the Act. In the context of this Determination, it means a set of principles and performance expectations against which the work, performance or conduct of licensed building services providers may be measured, in particular of their:

1. acquisition of, maintenance, further development of and application of skills relating to the performance of building services work
2. conduct, competence, diligence and integrity, including whether they are a fit and proper person to hold a licence
3. professional responsibilities
4. compliance with legislation related to building services work
5. communication with all parties involved in building services work

6. requirements imposed for the performance management of holders of a building services licence.

**“Competency”** means skills, knowledge and other attributes that collectively demonstrate a person’s understanding of a field of knowledge

**“Continuing Professional Development”** (CPD) has the same meaning as given by section 3 of the Act

**“Designer”** means a building services provider responsible for the design of prescribed building services work. For clarification, that work includes the whole or a part of the design of any:

- building work; or
- plumbing, hydraulic work or other types of building services

and includes the categories of architect, engineer, building designer or building services designer

**“Determination”**, unless otherwise provided, means this Determination

**“Demolition Work”** means prescribed building services work:

- consisting of the removal or destruction of a building, or part of a building; and
- it may be contracted to be managed or carried out by a licensed builder or demolisher

**“Deemed-to-Satisfy”** solution means a building solution, or plumbing solution, that meets the Deemed-to-Satisfy Provisions of the NCC, as distinct from a Performance solution

**“Domestic”** concerning the scope of work of a -

1. Builder- Domestic, means building work or demolition work on Class 1 or Class 10 buildings (of unrestricted size and number of storeys); and Class 2 buildings up to two storeys of Type C construction only, with a maximum floor area not exceeding 2,000m<sup>2</sup>;
2. Building Designer means to design and documentation of Class 1 or 10 buildings of unrestricted sizes (Deemed to Satisfy design solutions only)

**“Duties”** means obligations:

- placed on licensees by the Act including a relevant Code of Practice; and
- prescribed by the *Building Act 2016* Act, as applicable to various categories of persons, including building services providers

**“Experience”** means

1. a person’s familiarity with a skill or field of knowledge acquired over months or years of actual practice and which has resulted in understanding or mastery; and
2. it must primarily have been obtained or practised:
  - (i) after the attainment of the minimum mandatory qualification required for a licence; and
  - (ii) no more than five years before an application is made for a building services licence

**“Farming”** means

- a) cultivating, propagating and harvesting plants or fungi or their products or parts, including seeds, spores, bulbs or the like, but does not include forestry; or
- b) maintaining animals in any physical environment for:
  - (i) breeding them; or
  - (ii) selling them; or
  - (iii) acquiring and selling their products such as milk, wool, eggs or the like; or
- c) a combination of (a) and (b)

**“Farm shed”** means a single storey Class 7, 8 or 10 building located on land primarily used for farming that is:

- i. used in connection with farming; or
- ii. used primarily to store one or more farm vehicles; or
- iii. a combination of (i) and (ii); and
  - occupied neither frequently nor for extended periods by people; and
  - in which the total number of persons accommodated at any time does not exceed 2

**“Farm building”** (either Class 7b or Class 8) concerning work permitted by an owner-builder permit has the same meaning the Director’s Determination of Categories of Building and Demolition Work made under the *Building Act 2016*

**“Fit and proper”** has the same meaning as given by section 3 of the Act

**“Floor area”** has the same meaning as defined in the National Construction Code

**“Insurance”** means:

- a policy or indemnity by which a licensed individual or entity, or an owner-builder, receives financial protection or reimbursement against losses; and
- the type and amount of insurance provided meets the requirements of this Determination

**“Licence”** has the same meaning as given by section 3 of the Act

**“Licensed Entity”** has the same meaning as given by section 3 of the Act

**“Licensed Person”** of a licensed entity has the same meaning as given by section 3 of the Act

**“Low Risk Work”** means a type of work included in the Director’s Determination of Categories of Building and Demolition Work made under the *Building Act 2016*

**“National Construction Code”** (NCC) has the same meaning as given by section 3 of the Act

**“Owner”** and **“Owner-builder”** have the same meaning as given by section 3 of the Act

**“Permit Authority”** has the same meaning as given by section 3 of the Act

**“Performance Solution”** means a building solution, or a plumbing solution, that complies with

the Performance Requirements of the NCC, as distinct from a Deemed-to-Satisfy solution

**“Premises”** has the same meaning as given by section 4 of the *Building Act 2016*

**“Prescribed work”** has the same meaning as given by section 3 of the Act

**“Progression”** means a process, as determined by the Administrator, for an existing licensee to move to a higher class of licence within a licence category

**“Provisional licence”** relates to the process of licence progression and means a special licence endorsement held by an existing licensee that allows them to perform work at a higher scope of work to gain practical experience at that higher level

**“Refurbishment”** concerning the scope of work of a restricted building designer means

- work such as painting, repairing, and cleaning that is done to make a building look new again
- a process of improvement by cleaning, decorating, and re-equipping. It may include elements of retrofitting
- Retrofitting means providing something with a component or feature not fitted during manufacture or adding something that it did not have when first constructed. It is often used concerning the installation of new building systems, such as heating systems. Still, it might also refer to the fabric of a building, for example, retrofitting insulation or double glazing.

#### **Explanatory Notes**

Renovations, also called remodelling, involve conversions of existing places, changes in structure, the replacement of a defective object or area in the property and the addition of an extension. This means they focus on improving a structure that is broken, outdated or damaged.

A renovation is creating a new building within the structure of an old one and is also performed when the property needs to meet new building regulations. Therefore, to meet new codes or even turn it into a Grade A office space, you should opt for renovating it instead of refurbishing it.

**“Qualification”** means a formal certification, issued by a relevant approved body, which recognises that a person has achieved learning outcomes; and these are relevant to individual needs, or professional, industry or regulatory requirements

**“Regulations”** means the *Occupational Licensing (Building Services Work) Regulations 2016*

**“Scope of work”** means the particular types and extent of prescribed work for which a building services provider is permitted to contract for, manage or undertake as the responsible person

**“Skill sets”** means groupings of units of competency which are combined to provide a clearly defined statement of the skills and knowledge required by an individual to meet a licensing requirement

**“Statutory functions”**, concerning a licensed permit authority, or a licensed building surveyor, means the performance of specific tasks or activities as required by the *Building Act 2016*, which are prescribed building services work

**“Storey”** means a space within a building which is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but not:

(a) a space that contains only:

- (i) a lift shaft, stairway or meter room; or
- (ii) a bathroom, shower room, laundry, water closet or other sanitary compartment; or
- (iii) accommodation intended for not more than three vehicles; or
- (iv) a combination of the above.

(b) a mezzanine.

**“Transition”** means provisions in the Determination for the automatic transferral of a building services provider’s licence from a superseded:

- Licensing determination, to a replacement Determination in force under the Act; or
- A licence category or class, to an equivalent category or class, included within a Determination

**“Type of Construction”** means the types of fire rated construction of buildings that are provided for in the NCC and covers Types A, B, or C, with Type A as the most fire resistant

## Part I: Determination Scope

### **Explanatory Note**

This Determination is to be read in conjunction with the *Occupational Licensing Act 2005* and the *Occupational Licensing (Building Services Work) Regulations 2016*.

The *Occupational Licensing Act 2005* provides for the licensing of building services providers. This Determination establishes mandatory requirements for:

- 1) Categories, classes and scopes of work of licensed building services providers; and
- 2) Minimum qualifications, experience and competence of persons who may be granted a building services provider licence; and
- 3) Endorsements, special conditions or restrictions that may be placed on a licence;
- 4) Licensed Entities that are a building services provider;
- 5) Special licences to perform types of building services work, including owner-builder permits;
- 6) Insurance of licensees and owner-builders;
- 7) Licence renewals and reapplications;
- 8) Regulating the ongoing responsibilities of licensees, and their conduct, including Continuing Professional Development requirements and their compliance with Codes of Practice, approved by the Administrator.

### **Explanatory Note**

Parts 10 and 11 of this Determination, relating to the conduct of licence holders or persons applying for a licence, apply as Codes of Practice established by the Administrator under section 53 of the Act.

## Part 2: Transitional requirements for licensing and owner-builder permits

### 2.1 General transitional provisions

Upon the commencement of this Determination:

- The licence of any building services provider, or any owner-builder permit, granted under any previous occupational licensing determination, continue to apply on the same terms and conditions as previously in effect (reference: Schedule 5, Part 4, Division 1 Item 1, and Division 2, Item 3 of the Act).
- The status of licensed persons, originally accredited under sections 23 and 25 of the Building Act 2000, who are associated with a body corporate operating as a building services provider, continues to apply on the same terms and conditions previously in effect (reference: Schedule 5, Division 1 of the Act; and the *Occupational Licensing (Building Services Work) Regulations 2016*, regulation 7).

### 2.2 Superseded occupational licences transitioned to new licence class

For classes of licence that were specified in a superseded occupational licensing determination but are not specifically included in this Determination, the following arrangements apply:

#### Builder - Construction Manager

For the class of Construction Manager within the category of Builder, an existing licence of the type in column 1 is transitioned into a new licence of the type specified in column 2:

Column 1 (existing)	Column 2 (new)
<b>Construction Manager sub-class:</b>	<b>New licence class and sub-class:</b>
Open	Builder (General construction); Open
Medium Rise	Builder (General construction); Medium Rise
Low Rise	Builder (General construction); Low Rise

#### Note 1: Transitioned Scope of Work of former Builder - Construction Managers

The scope of work of a transitioned licence is the same that applied to each individual licenced Construction Manager before the commencement of this Determination. After commencement, transitioned licensees may:

- manage any building work they contract for that is within their scope of work; and also
- carry out building work within their scope of work, but only if acting within their area of competence.

## **Note 2: Insurance for former Builder - Construction Managers**

Licence holders transitioned from Builder – Construction Manager to Builder (General Construction) are required to maintain a policy of Professional Indemnity Insurance to cover projects already contracted for or where construction has already commenced until those projects are completed.

For new projects, the licensee may elect to have that work covered by contract works and public liability insurance policies. To ensure that their exposure to risk from the types of work they undertake is appropriately reflected in the type and amount of insurance they hold, licensees may consider seeking advice from insurance professionals.

## **Civil Designer**

For the licence class of Civil Designer within the category of Designer, each existing licence is transitioned into a new licence, either as:

1. an Engineer – Civil; *alternatively, if requested by the licence holder*
2. a Building Designer with an equivalent scope of work.

## **Note 1: Transitioned Scope of Work of former Civil Designers**

The scope of work of a transitioned licence is the same that applied to each individual licenced Civil Designer before the commencement of this Determination. Importantly, this means that licensees who are transitioned under this provision will continue to be restricted to the development of Deemed-to-Satisfy building solutions only.

## **Note 2: Progression to unrestricted Engineer - Civil class**

As an incentive to licensees who have been transitioned under this Determination provision, the Administrator will accept applications from those persons to hold an unrestricted licence as an Engineer – Civil. Applications may include:

- the submission of a portfolio of 5 civil and engineering designs for which the licensee was responsible; and
- any other qualification, certificate, authority, experience or examination, that the Administrator considers is, either alone or together, equivalent to the requirement for licensing as an unrestricted engineer - civil.



## **Part 3: General licensing requirements (applicable to any licence category or class)**

### **3.1 Conditional, restricted or provisional licences**

3.1.1 Section 40 of the Act provides for licensing of building services providers with conditions. The Administrator may decide that the combination of qualifications, competencies and experience held by the applicant are sufficient for limited licensing. In such cases, the Administrator may impose restrictions on the Scope of Work of the licensee or grant a licence subject to conditions under section 40.

Section 93 of the Act provides that the Administrator may apply restrictions to a licence as a disciplinary sanction where there has been an adverse finding from disciplinary action taken against a licensee.

3.1.2 The Administrator may also grant a provisional licence as a special licence endorsement held by an existing licensee, which specifically allows them to perform work at a higher scope of work to gain practical experience at that higher level. Provisional licences may be subject to any conditions the Administrator considers are relevant and necessary.

### **3.2 The administrator may accept applications where the applicant does not meet minimum specified requirements**

Notwithstanding anything in this Determination, the Administrator has the discretion to accept an application for a building services licence that does not meet the minimum requirements specified, if they are satisfied that:

1. The information provided by the applicant confirms that they have a combination of relevant knowledge, experience or qualifications that is equivalent to the minimum requirements of this Determination specified for a particular licence category or class; or
2. As a condition before granting a building services licence under this clause, the Administrator may require the applicant to demonstrate satisfactory completion of an approved course of training or a competency assessment within a specified period.
3. That discretion may also extend to applicants who require gap training or other experience to attain the mandatory qualification, who are granted a conditional licence to perform prescribed building services work. Examples may include:
  - overseas applicants
  - persons who have suffered illness or injury, and their training agreement had expired.

#### **Explanatory Note**

As set out in this Determination, the requirements for attaining specific qualifications and experience are the primary means of persons becoming licenced. The Administrator's discretion under this clause (regarding the granting of a licence or a condition of a licence) is only to be exercised in exceptional circumstances after:

- ascertaining relevant facts that are based on supporting evidence;
- acting in good faith and for a proper purpose (such as where a refusal may amount to unnecessary hardship to an applicant); and
- giving proper consideration to the merits of the applicant's case; and
- deciding it is in the public interest to exercise that discretion.

### 3.3 Entity Licences – specific requirements for applications

The licensing requirements for organisations or bodies that contract for and perform building services work are detailed in Part 7 of this Determination.

### 3.4 Endorsements on existing licences

- The Administrator may accept applications from suitably qualified or experienced licensees to endorse their licence to perform additional types of prescribed building services work or other types of prescribed work under the Act.
- Endorsements may only be granted if the Administrator has made a Determination creating specific endorsements available to a category or class of licensee, who may then make such an application.
- Endorsements may be granted subject to conditions.

#### Explanatory Note

An endorsement is a special condition entered onto a licence authorising licensees to perform a specific category of work. It has these characteristics: -

1. allowing the performance of a specific class or type of work that is in addition to the usual scope of work of a category or class of licence; and
2. it may be voluntarily applied for by any eligible and competent licensee, and is not imposed by the Administrator as a restrictive licencing condition; and
3. applicants must provide evidence of their fitness, competence, or suitability to be granted each endorsement.

### 3.5 Mandatory training requirement as a licence condition

The Administrator may at any time, by a notice given to a licensee, apply a condition to their licence that requires them to undertake a specific course of training or to help them attain a specified level of knowledge or skill.

- Training includes educational activities or an assessment of their current skills and knowledge to identify information gaps.
- As a condition of the granting of or retaining a building services licence, the administrator may require the applicant to show satisfactory completion of an approved course of training.
- A training requirement imposed as a licence condition may be part of, or in addition to, the licensee's pre-existing requirement to complete certain CPD activities appropriate to their licence category.

Section 93 of the Act also provides that the Administrator may also require additional training as a licence condition where there has been an adverse finding due to disciplinary action against the licensee.

### **3.6 Insurance requirements (types, amounts, coverage etc.)**

- The insurance requirements for each licence category or class are detailed in Part 9 of this Determination.
- Insurance requirements for persons applying for an owner-builder permit are detailed in Part 6.

### **3.7 Continuing Professional Development (CPD) requirements**

The general requirements for the performance of Continuing Professional Development relevant to each licence category or class are as provided in Part 8 of this Determination.

As the Administrator may also approve specific industry association CPD schemes, those schemes may contain additional or different requirements from what is in this Determination.

### **3.8 Progression to a higher class of licence**

Provisions for existing licensees to progress to a higher class or level within a licence category are set out in this Determination, as applicable to each class.

Generally, a licensee must have demonstrated that they have attained a mixture of the requisite skills, knowledge and experience appropriate to the complexity of the work required to be performed at the higher level appropriate to a licence class before they may progress to that class. For example, attaining a higher formal qualification, without a period of experience and responsibility of working in an increased scope of work, would not allow progression until the experience requirement had also been satisfied.

### **3.9 Audit of work or conduct of licensees**

The Administrator may arrange for audits of the work or review the conduct of any licensee.

Codes of Practice established under the Act are relevant to determining whether the work or conduct of licensees meets acceptable standards of conduct and professionalism expected from building services providers in the performance of their work.

### **3.10 Duties of license holders**

A licensed building services provider who carries out any prescribed work under the licence must ensure that:

- (a) the prescribed work; and
- (b) any other work performed in connection with, or for the prescribed work;

complies with:

- (a) the Act and any relevant Code of Practice made under it; and
- (b) any Determinations made under the Act or the *Building Act 2016* that apply to or relate to the work; and
- (c) the National Construction Code; and
- (d) relevant Australian, or joint Australian New Zealand Standard.

### **3.11 Acting within licensee's area of competence**

The Act requires a licensed building services provider to act only within their area of competence.

#### **Explanatory Note**

Undertaking a building project without adequate experience, resources, or capability may result in circumstances where a person could make a complaint against a building services provider. Investigation into such a complaint may determine incompetence and could result in a finding of unsatisfactory conduct.

### **3.12 Complaints against licensees**

Licensees must cooperate with the Administrator during an investigation or the resolution of any complaints made against them relating to defective work or a contravention by the licensee of the Act or a Code of Practice.

### **3.13 Codes of Practice to be complied with by licensees**

Building services providers must comply with any relevant Code of Practice concerning their:

- (i) professional conduct, competence, diligence and integrity; and
- (ii) professional responsibilities of each occupation and class of building services providers; and
- (iii) compliance with legislation related to building services work; and
- (iv) communication with all parties involved in building services work; and
- (v) performance management as the holder of a building services licence; and
- (vi) conduct and behaviour as the holder of a building services licence.

### **3.14 When a person is no longer licensed as a building services provider:**

- They are no longer covered by the insurance required by the Act, as specified in this Determination
- The period of the licence has expired, and it has not been renewed
- They have not paid their fees to the Administrator, and 30 days have elapsed since the due date
- The person has surrendered their licence under s.44 of the Act
- The Administrator has cancelled their licence under s.46 or s.37D(7) of the Act
- A court has suspended or cancelled their licence under s.88 of the Act
- For an organisation that is the holder of a building services licence and:
  - (i) a director of a body corporate; or
  - (ii) a partner in a partnership; or
  - (iii) a permanent employee of a body corporate, partnership or municipal council, who has been nominated as a licensed person of the licensed entity, ceases to hold that licence, dies or has been disqualified under the Corporations Act, and the entity has not nominated their replacement as required under s 37D(6) of the Act.

## **Part 4 Administration of Licensing (General provisions)**

### **4.1 Guidance for applicants or existing licensees**

The Administrator may publish any:

- Approved Forms
- Guidance for applicants seeking a licence, or an owner-builder permit
- Guidelines on licensee's scope of work, conduct or other licensing obligations

Necessary for the efficient administration of licensing under the Act.

### **4.2 Application of Mutual Recognition laws**

In the assessment of an application for a licence to perform prescribed work under the Act that is dependent on the applicant holding a similar licence in another state, the Administrator is to apply any law relating to mutual recognition of qualifications across jurisdictions.

### **4.3 Licence fees**

#### **4.3.1 Fees generally**

- (i) The *Occupational Licensing (Building Services Work) Regulations 2016* sets out the licence fees charged to applicants or licensees.
- (ii) The regulations provide that fees are expressed as fee units. The value of a fee unit automatically increases on 1 July each year. Multiplying the annual dollar value of a fee unit with the number of units specified in the regulations gives the current licence fee in dollars and cents.
- (iii) The Administrator does not have any capacity to increase licence fees. All changes have to be approved by the Governor-in-Council as an amendment of the regulations.
- (iv) The Administrator may waive, remit or refund part or all of a fee payable under this Act. However, that discretion would only be exercised in exceptional circumstances.
- (v) The Administrator is to publish a current scale in dollars of all licensing fees on the Consumer Building and Occupational Services website, converted from the prescribed fee units. These details may also be made available to the public in any manner the Administrator determines.

#### **4.3.2 Obligation to pay licence fees**

- (i) Applicants for a new licence or renewal are required to pay the fees prescribed in the regulations before they are granted a licence.
- (ii) Applicants for licences in multiple categories or occupations must pay a full licence fee for the first occupation and then the prescribed additional occupation fee for any subsequent occupation included on their licence.
- (iii) A fee payable may be recovered as if it were a judgment of the Magistrates Court (Civil Division) and enforceable under the *Magistrates Court (Civil Division) Act 1992*.

## 4.4 Licensing assessment panel

Section 11(b) of the Act provides for the Administrator to confer with, or seek advice from, other persons, bodies or organisations engaged in any relevant industry and other interested groups or bodies on matters relating to the administration of the Act.

If required, the Administrator may convene a panel of persons to assist with assessing new licence applications, licence renewals, the imposition of licence conditions, or advise on disciplinary matters.

## 4.5 Currency of specified qualifications

- (i) The building industry operates in an environment where continual changes to technology or market requirements may mean that certain techniques and processes may quickly become out of date.
- (ii) The currency of the qualifications of applicants for a licence will depend on the specific occupational area being applied for. However, as a general guide, the Administrator **will not** accept any training qualifications or Statement of Results from applicants who have not been working in the specific occupation or an allied industry sector more than two years after qualification was issued to them by a Registered Training Organisation.
- (iii) This is to ensure that the applicant has the relevant experience or training and knowledge regarding each activity being applied for.
- (iv) For qualifications that are more than two years old, and the applicant has been out of the industry during that time, they will be required to have their training qualifications or Statement of Results assessed by a registered training provider and a new Statement of Results issued to reflect current training requirements.

## 4.6 Experience statements

- (i) The Administrator requires that all applicants for a licence provide evidence of their experience in carrying out or managing the work of a building services provider. A statement of experience must be relevant to the category and class of the licence applied for and the scope of work.
- (ii) Evidence can include a portfolio of documentation including plans, specifications, and descriptions of projects worked on, supervised or managed.
- (iii) The Administrator may prepare guidelines for applicants regarding acceptable standards of work experience for categories of licences.
- (iv) The weight given to any statement submitted is at the discretion of the Administrator.

## 4.7 Applicant's good character, fitness or personal probity (“fit and proper person test”)

The Administrator may make such enquiries as are necessary to establish the applicant's capacity, competence and fitness, including whether the applicant has a sound and stable financial background, to carry out building services work of the occupation and class applied for.

Part 10 of this Determination applies as a Code of Practice regarding the fit and proper requirements of persons who are, or applying to be, a building services provider.

## 4.8 Referee reports

The Administrator may require that applicants for a licence provide written supporting statements evidence from referees, or the contact details of suitable referees, who may honestly vouch for the applicant's experience of performance of building services work, their qualifications, technical competence or their fitness to be licensed in the licence category and class applied for.

Persons supplying a reference must have either:

- supervised or directed the applicant carrying out the work that is the subject of a referee statement; or
- known and worked with the applicant for at least six months before the application; and
- declare that the applicant has demonstrated a level of knowledge and experience in a wide range of work that would allow them to perform a licensee's roles and responsibilities competently.

For example, a reference may be received from the applicant's building work supervisor verifying the applicant's experience in carrying out the work under relevant standards and codes.

For a licence application received from a person who has taken a prior break (no more than 12 months) from actively working in the building and construction industry, the Administrator may also choose to seek referee reports from any persons working in any relevant capacity who have recently acted as a supervisor of the applicant.

The weight given to any reference is entirely at the discretion of the Administrator.

## 4.9 Tests or interviews

At the Administrator's discretion, an applicant may be required to demonstrate their knowledge or competence in building services work, or awareness of relevant business or legal requirements, or ethics, by their:

- Attendance at an interview; or
- Undertaking a test or an examination.

## 4.10 Notifications to parties of decisions by Administrator and review rights

- The Administrator will provide a notice to affected parties (applicants, licensees or owner-builders) of decisions made by them concerning:
  - Refusal of an application for a licence, or an owner-builder permit, or for the renewal of a licence
  - Conditions or restrictions applicable to licences granted or renewed
  - The cancellation or suspension of a licence or an owner-builder permit.
- A notification is to be made no later than seven business days after the administrator has made a decision.
- The Administrator provides details of the specific grounds or matters that were relied on for making a decision.
- A notification is to include details of the person's:
  - right to seek from the Administrator a review of a licensing decision, under section 80 of the Act; alternatively,

- right of appeal to the Magistrates Court (Administrative Appeals Division) regarding a licensing decision, under section 82 of the Act.

#### **4.11 Licence card or certificate of identification to be issued**

Proof of holding a licence will be issued to all successful applicants, in the manner set by the Administrator, including a licence card, certificate, or other similar evidence.

#### **4.12 Licence renewals**

The Administrator may renew a building services provider licence for a further period (not exceeding three years) on application by the licence holder who can demonstrate:

- satisfactory continuing professional development activities; and
- the required insurance covers them; and
- they have complied with relevant Codes of Practice; and
- are a fit and proper person to hold a licence; and
- their licence is not currently subject to a suspension or pending disciplinary actions that could lead to a suspension or cancellation of the licence.

#### **4.13 Information made public regarding building services provider licensees**

The Administrator will maintain a licensing register and publish relevant information regarding licensed building services providers, including details of their name, business name, category, class, the scope of work, and any limitations on their scope of work.

Details are to be made available to the public as the Administrator determines.



## **Part 5: Categories and Classes of Building Services Providers**

This Part of the Determination specifies the following licence Categories and any Classes, or Sub-classes, within each Category:

### **Designer category**

- Architect
- Building Services Designer
- Building Designer
- Engineer

### **Building Surveyor category**

- Building Surveyor Open
- Building Surveyor Limited

### **Permit Authority category**

### **Builder category**

- Builder (General Construction)
- Builder Fire Protection Services
- Builder Demolisher

### **Private Planning Consultant category**

Specific details and requirements of each class or sub-classes within a specific Category and their scope of work are outlined in the following pages.

### **Special licences for certain prescribed building work:**

- Owner-builder Permits

## Architect

<b>Category</b>	<b>Designer</b>
<b>Class</b>	<b>Architect</b>
Scope of work (1): Standard requirements:	Design and documentation for buildings of all classes and unrestricted size but only if acting within their area of competence.
Any Explanatory Notes on understanding the scope of work	The scope allows for taking responsibility for all aspects of the design of buildings and preparation of documentation submitted for a Certificate of Likely Compliance.  Projects may include building services design, including plumbing or hydraulic work, but only if acting within their area of competence.
<b>Minimum requirements for new application requirements for this Class (not Mutual Recognition)</b>	
Qualifications (all new applicants)	Registration as an architect under the <i>Architects Act 1929</i>
Experience (all new applicants)	None specified in this Determination, as covered by requirements for registration under the <i>Architects Act 1929</i>
Insurance	<ul style="list-style-type: none"> <li>• Professional Indemnity; <ul style="list-style-type: none"> <li>○ See Part 9 for insurance requirements of licensees</li> </ul> </li> </ul>
Licence application fee	Applicant to pay the fee(s) as prescribed in the regulations made under the Act
<b>Obligations of every licensee after a licence has been granted:</b>	
Continuing Professional Development	<ul style="list-style-type: none"> <li>• 20 points minimum per annum for this Category; <ul style="list-style-type: none"> <li>○ Refer to the CPD Scheme in Part 8 for general details or an approved industry association CPD scheme</li> </ul> </li> </ul>
Code of Practice	<ul style="list-style-type: none"> <li>• To observe or apply the relevant Code <ul style="list-style-type: none"> <li>○ Reference applicable Codes in Parts 10 and 11 for details</li> </ul> </li> </ul>
Licence Fees (Ongoing)	<ul style="list-style-type: none"> <li>• The licensee is to pay the fee(s) as prescribed in the regulations made under the Act</li> </ul>
Insurance (Ongoing)	<ul style="list-style-type: none"> <li>• Professional Indemnity as provided in Part 9 of the Determination</li> </ul>
Any other conditions/ requirements applicable to licensees	<ul style="list-style-type: none"> <li>• If an individual licensee has been transitioned into holding a licence under a previous Determination, then those special restrictions are still applicable, and the licensee must observe them.</li> </ul>

## Building Designer

<b>Category</b>	<b>Designer</b>
<b>Class</b>	<b>Building Designer</b>
<b>Sub-classes</b>	<ol style="list-style-type: none"> <li>1. <b>Restricted</b></li> <li>2. <b>Limited</b></li> <li>3. <b>Domestic</b></li> </ol>
<b>Scope of work (1):</b> Standard requirements:	<p><b>Restricted</b></p> <p>Design and documentation of:</p> <ul style="list-style-type: none"> <li>• Classes 1 and 10 buildings; and</li> <li>• Class 2-9 buildings up to a maximum of three storeys; or a maximum floor area of 2000m<sup>2</sup></li> <li>• Includes refurbishments of any storey of a building (including those over three storeys)</li> </ul> <p><b>Limited</b></p> <p>Design and documentation of:</p> <ul style="list-style-type: none"> <li>• Class 1 or 10 buildings; and</li> <li>• Class 2 - 9 buildings of up to a maximum of two storeys in height; or a maximum floor area of 2000m<sup>2</sup></li> </ul> <p><b>Domestic</b></p> <ul style="list-style-type: none"> <li>• Design and documentation of Class 1 or 10 buildings of unrestricted sizes (Deemed to Satisfy design solutions only)</li> </ul>
Any Explanatory Notes on understanding the scope of work	<ul style="list-style-type: none"> <li>• Responsibility for all aspects of the design of building or structure within the Scope of Work, but only if acting within their area of competence; or</li> <li>• The calculation of the maximum building size of 2000m<sup>2</sup> includes the existing structure and the proposed additions or alteration (e.g. if a building is already larger than 2000m<sup>2</sup>, only an architect may perform new design work for that building)</li> <li>• There are no restrictions on the sizes or height of Class 1 or 10 buildings).</li> <li>• Projects may include building services design, including plumbing or hydraulic work, but only if acting within their area of competence.</li> </ul> <p>Licensees must only work within their scope of work and their area of competency. For example, a Building Designer cannot design a sprinkler system (a fire protection system) unless licensed as a Fire Protection Services Designer and have appropriate qualifications for designing fire protection work.</p>

<p><b>Scope of work (2):</b></p> <p>Any circumstances where work on a larger/higher building (e.g. high rise) may be permitted that is outside the standard Scope of Work</p>	<p>“Refurbishment” is defined in the definition section.</p> <p>Design of “refurbishments” (including shop or office fit-outs, or “like for like” replacements) in commercial buildings of a larger size than 2000m<sup>2</sup> (if Determined by the Director as being a type of Low Risk Work - Categories 1 and 2).</p>
<p>Individual licence restrictions/ conditions</p>	<p><i>Upon application</i>, the Administrator may allow a licensee to:</p> <ul style="list-style-type: none"> <li>• only work on a particular building project; or</li> <li>• only work on certain building classes; or</li> <li>• Domestic or Limited Designers may perform refurbishments of other Classes of (Class 5 or 6 buildings) of no more than two storeys in height if that work is <i>larger than</i> permitted as Low Risk Work (Categories 1 or 2).</li> </ul>
<p><b>Minimum requirements for new application requirements for this Class (not Mutual Recognition)</b></p>	
<p>Qualifications (all new applicants)</p>	<p><b>Restricted</b></p> <ul style="list-style-type: none"> <li>• Associate Degree of Building Design (CC01 – Qld); or</li> <li>• Graduate Diploma of Building Design (AQF 8); or</li> <li>• Graduate Certificate in Building Design (AQF 8); or</li> <li>• Advanced Diploma in Building Design (AQF 6).</li> </ul> <p><b>Limited</b></p> <ul style="list-style-type: none"> <li>• Diploma in Building Design (AQF 5) plus any additional skill sets as determined by the Administrator are required for this class</li> </ul> <p><b>Domestic</b></p> <ul style="list-style-type: none"> <li>• Certificate IV in Residential Drafting; or</li> <li>• Certificate IV in Building Design Drafting; or</li> <li>• Relevant skill sets derived from the Diploma in Building Design (AQF 5) and units derived from related training packages, as determined by the Administrator.</li> </ul>
<p>Experience (all new applicants)</p>	<p><b>Restricted</b></p> <ul style="list-style-type: none"> <li>• Three years’ experience in building design within the scope of work for this class</li> </ul> <p><b>Limited</b></p> <ul style="list-style-type: none"> <li>• Two years’ experience in building design within the scope of work for this class</li> </ul> <p><b>Domestic</b></p> <ul style="list-style-type: none"> <li>• Two years’ experience in building design within the scope of work for this class</li> </ul>

Insurance	<ul style="list-style-type: none"> <li>• Professional Indemnity; <ul style="list-style-type: none"> <li>○ See Part 9 for insurance requirements of licensees</li> </ul> </li> </ul>
Licence application fee	Applicant to pay the fee(s) as prescribed in the regulations made under the Act.
<b>Obligations of every licensee after a licence has been granted:</b>	
Continuing Professional Development	<ul style="list-style-type: none"> <li>• 20 points minimum per annum for this Category; <ul style="list-style-type: none"> <li>○ Refer to the CPD scheme in Part 8 for general details or an approved industry association CPD scheme</li> </ul> </li> </ul>
Code of Practice	<ul style="list-style-type: none"> <li>• To observe or apply the relevant Code <ul style="list-style-type: none"> <li>○ Reference applicable Codes in Parts 10 and 11 for details</li> </ul> </li> </ul>
Licence Fees (Ongoing)	<ul style="list-style-type: none"> <li>• The licensee is to pay the fee(s) as prescribed in the regulations made under the Act.</li> </ul>
Insurance (Ongoing)	<ul style="list-style-type: none"> <li>• Professional Indemnity as provided in Part 9 of the Determination</li> </ul>
Any other conditions/ requirements applicable to licensees	<ul style="list-style-type: none"> <li>• If an individual licensee has been transitioned into holding a licence under a previous Determination, then those special restrictions are still applicable, and the licensee must observe them</li> <li>• Licensees who have undergone a process of assessment of a Mutual Recognition application may also be subject to special licensing conditions/ restrictions that reflects the alignment of the scope of work with the interstate licence.</li> </ul>
Progression to a higher licence level/ class for licensees	<ul style="list-style-type: none"> <li>• The Administrator may grant a provisional licence to upgrade a licence from another class of Building Designer.</li> <li>• The Administrator may impose requirements for that provisional licence to enable progression, including working under supervision for a period to gain experience at the higher level.</li> </ul>

## Engineer

<b>Category</b>	<b>Designer</b>
<b>Class</b>	<b>Engineer</b>
<b>Sub-classes</b>	<ul style="list-style-type: none"> <li>• <b>Civil</b></li> <li>• <b>Building Services</b></li> <li>• <b>Fire Safety</b></li> </ul>
Scope of work (1): Standard requirements:	<p><b>Civil</b></p> <p>Unrestricted in the field of civil engineering design. Includes building solutions (Deemed-to-Satisfy or Performance Solutions) for any engineering that fall within the individual's area of competence. Civil engineering may include:</p> <ul style="list-style-type: none"> <li>• civil</li> <li>• structural</li> <li>• geotechnical</li> <li>• environmental engineering</li> </ul> <p><b>Building Services</b></p> <p>Unrestricted in the field of building services design. Includes building solutions (Deemed-to-Satisfy or Performance Solutions) for any engineering designs that fall within the individual's area of competence. Building services in buildings may include:</p> <ul style="list-style-type: none"> <li>• mechanical building services</li> <li>• hydraulic building services</li> <li>• electrical building services</li> <li>• fire safety systems</li> <li>• building acoustics</li> <li>• energy management</li> </ul> <p><b>Fire Safety</b></p> <p>Unrestricted in the field of fire safety engineering. Includes building solutions (Deemed-to-Satisfy Solutions or Performance Solutions) for any fire safety engineering designs that fall within the individual's area of competence.</p> <p>Fire Safety Engineering is the application of engineering principles, rules and expert judgement based on a scientific appreciation of fire and its effects and of the reaction and behaviour of people in the event of a fire to:</p> <ul style="list-style-type: none"> <li>• save life, protect property and preserve the environment and heritage from destructive fire;</li> <li>• quantify the hazards and risk of fire and its effects;</li> <li>• mitigate fire damage by proper design, construction, arrangement and use of buildings, materials, structures,</li> </ul>

	<p>industrial processes and transportation systems;</p> <ul style="list-style-type: none"> <li>• evaluate analytically the optimum protective and preventive measures, including design, installation and maintenance of active and passive fire and life safety systems, necessary to limit, within prescribed levels, the consequences of fire.</li> </ul>
Any Explanatory Notes on understanding the scope of work	<ul style="list-style-type: none"> <li>• Responsibility for design and certification of the engineering aspects of buildings or structures within the Scope of Work.</li> <li>• For non-habitable structures (Class 10, or 7b Farm Buildings), an Engineer Civil may be responsible for all design elements of the structure required to comply with the NCC.</li> <li>• For all habitable structures, engineers may only be responsible for designing structures, components, services, or fire safety elements; an architect or building designer must take responsibility for the overall design of the building required to comply with the NCC.</li> </ul>
<b>Minimum requirements for new application requirements for this Class (not Mutual Recognition)</b>	
Qualifications (all new applicants)	<p><b>Civil</b></p> <ul style="list-style-type: none"> <li>• Listing on the National Engineers Register (NER) with the general areas of practice of Civil, Structural or Environmental Engineering; or</li> <li>• Recognition by Engineers Australia as a Chartered Professional Engineer in the general areas of practice of Civil, Structural or Environmental Engineering; or</li> <li>• A degree in engineering (AQF 7) and a graduate certificate (or higher post graduate qualification) in civil, structural, geotechnical or environmental engineering, or soil science, and three years' experience practising as a design engineer within the scope of work for Engineer-Civil; or</li> <li>• A degree in engineering (AQF 7) and five years' experience practising as a design engineer within the scope of work for Engineer-Civil attested to by a senior engineer within civil, structural, geotechnical practice or environmental engineering.</li> </ul> <p><b>Building Services</b></p> <ul style="list-style-type: none"> <li>• Listing on the National Engineers Register (NER) with the general areas of practice of Building Services; or</li> <li>• Recognition by Engineers Australia as a Chartered Professional Engineer in the general areas of practice of Building Services; or</li> <li>• A degree in engineering (AQF 7) with a graduate certificate (or higher post graduate qualification) in building services, building mechanical services, air conditioning, building electrical services, building hydraulic services, fire safety systems, building acoustics or energy management in buildings,</li> </ul>

	<p>and three years' experience practising as a design engineer within the scope of work for Engineer – Building Services; or</p> <ul style="list-style-type: none"> <li>• A degree in engineering (AQF 7) and five years' experience practising as a design engineer within the scope of work for Engineer – Building Services attested to by a senior engineer within the area of practice of Building Services.</li> </ul> <p><b>Fire Safety</b></p> <ul style="list-style-type: none"> <li>• Listing on the National Engineers Register (NER) with the specific area of practice of Fire Safety; or</li> <li>• Recognition by Engineers Australia as a Chartered Professional Engineer in the specific area of practice of Fire Safety; or</li> <li>• an appropriate degree (AQF 7) with a Graduate Diploma or higher qualification in Fire Safety such as <i>the Graduate Diploma of Building Fire Safety and Risk Engineering</i> from Victoria University or <i>Master of Fire Safety Engineering</i> from the University of Western Sydney and three years design experience in the area of fire safety engineering attested to by a senior engineer within the area of practice of Fire Safety.</li> </ul> <p>In addition to engineering degrees, 'an appropriate degree' may include degrees in Architecture or Building Surveying.</p>
Experience (all new applicants)	As stated in the qualifications section, plus any additional competency assessment required by the Administrator.
Insurance	<ul style="list-style-type: none"> <li>• Professional Indemnity; <ul style="list-style-type: none"> <li>○ See Part 9 for insurance requirements of licensees</li> </ul> </li> </ul>
Licence application fee	Applicant to pay the fee(s) as prescribed in the regulations made under the Act.
<b>Obligations of every licensee after a licence has been granted:</b>	
Continuing Professional Development	<ul style="list-style-type: none"> <li>• 30 points minimum per annum for this Category; or</li> <li>• The requirements of the NER, or requirements of maintaining Chartered Engineer status; <ul style="list-style-type: none"> <li>○ Refer to the CPD scheme in Part 8 for general details or an approved industry association CPD scheme</li> </ul> </li> </ul>
Code of Practice	<ul style="list-style-type: none"> <li>• To observe or apply the relevant Code <ul style="list-style-type: none"> <li>○ Reference applicable Codes in Parts 10 and 11 for details</li> </ul> </li> </ul>
Licence Fees (Ongoing)	<ul style="list-style-type: none"> <li>• The licensee is to pay the fee(s) as prescribed in the regulations made under the Act</li> </ul>
Insurance (Ongoing)	<ul style="list-style-type: none"> <li>• Professional Indemnity as provided in Part 9 of the Determination</li> </ul>



<p>Any other conditions/ requirements applicable to licensees</p>	<ul style="list-style-type: none"><li>• If an individual licensee has been transitioned into holding a licence under a previous Determination, then those special restrictions are still applicable, and the licensee must observe them</li><li>• Licensees who have undergone a process of assessment of a Mutual Recognition application may also be subject to special licensing conditions/ restrictions that reflects the alignment of the scope of work with the interstate licence.</li></ul>
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## Building Services Designer

Category	Designer
<b>Class</b>	<b>Building Services Designer</b>
<b>Sub-classes</b>	<p><b>Mechanical</b></p> <ul style="list-style-type: none"> <li>• Restricted</li> <li>• Limited</li> <li>• Domestic</li> </ul> <p><b>Electrical</b></p> <ul style="list-style-type: none"> <li>• Restricted</li> <li>• Limited</li> <li>• Domestic</li> </ul> <p><b>Hydraulic</b></p> <ul style="list-style-type: none"> <li>• Restricted</li> <li>• Limited</li> <li>• Domestic</li> </ul> <p><b>Fire</b></p> <ul style="list-style-type: none"> <li>• Restricted</li> <li>• Limited</li> <li>• Domestic</li> </ul>
<b>Mechanical: Scope of work</b> (Standard requirements)	<p><b>Restricted</b></p> <p>Deemed-to-Satisfy design solutions only for mechanical building services in buildings of all classes and unrestricted size.</p>
	<p><b>Limited</b></p> <p>Deemed to Satisfy design solutions for mechanical building services in all Class 1 and 10 buildings and Class 2 - 9 buildings of up to two storeys with a maximum floor area of 2000m<sup>2</sup>.</p>
	<p><b>Domestic</b></p> <p>Deemed to Satisfy design solutions only for mechanical building services in Class 1 and 10 buildings</p>
<b>Electrical: Scope of work</b> (Standard requirements)	<p><b>Restricted</b></p> <p>Deemed to Satisfy design solutions for electrical building services in buildings of all classes and unrestricted size.</p>

	<p><b>Limited</b></p> <p>Deemed to Satisfy design solutions for electrical building services in all Class 1 and 10 buildings, and Class 2 - 9 buildings of up to two storeys with a maximum floor area of 2000m<sup>2</sup></p>
	<p><b>Domestic</b></p> <p>Deemed to Satisfy design solutions for electrical building services in Class 1 and 10 buildings</p>
<p><b>Hydraulic: Scope of work</b> (Standard requirements)</p>	<p><b>Restricted</b></p> <p>Deemed to Satisfy design solutions for hydraulic building services in buildings of all classes and unrestricted size.</p>
	<p><b>Limited</b></p> <p>Deemed to Satisfy design solutions for hydraulic building services in all Class 1 and 10 buildings, and Class 2 - 9 buildings of up to two storeys with a maximum floor area of 2000m<sup>2</sup></p>
	<p><b>Domestic</b></p> <p>Deemed to Satisfy design solutions for hydraulic building services in Class 1 and 10 buildings.</p>
<p><b>Fire Protection: Scope of work</b> (Standard requirements)</p>	<p><b>Restricted</b></p> <p>Deemed to Satisfy design solutions for fire protection-related building services in all classes and unrestricted size.</p>
	<p><b>Limited</b></p> <p>Deemed to Satisfy design solutions for fire protection related building services in all Class 1 and 10 buildings, and Class 2 - 9 buildings of up to two storeys with a maximum floor area of 2000m<sup>2</sup></p>
	<p><b>Domestic</b></p> <p>Deemed to Satisfy design solutions for fire protection related building services in Class 1 and 10 buildings.</p>
<p><b>Explanatory Notes</b></p>	<p>Licenses must only work within their scope of work and their area of competency. For example, a Hydraulic Services Designer cannot design a sprinkler system (a fire protection system) unless licensed as a Fire Protection Services Designer and have appropriate qualifications for designing fire protection work.</p>

<b>Minimum requirements for new application requirements for this Class (not Mutual Recognition)</b>	
<b>Qualifications and Experience</b> (all new applicants)	
<b>Mechanical</b>	<p><b>Restricted</b></p> <p>An appropriate Advanced Diploma (AQF 6)</p> <p>(Suitable qualifications may include MEM60112- Advanced Diploma of Engineering):</p> <p>and</p> <p>Three years' experience in building services design within the scope of work for this class.</p>
	<p><b>Limited</b></p> <p>An appropriate Diploma (AQF 5)</p> <p>Suitable qualifications may include:</p> <ul style="list-style-type: none"> <li>• MEM50212 Diploma of Engineering - Technical (Mechanical)</li> <li>• Diploma of Engineering Technology 22229 VIC</li> <li>• UEE50311- Diploma of Electrical and Refrigeration and Air-conditioning</li> <li>• CPC50412- Diploma of Plumbing and Services</li> <li>• MEM80112- Graduate Diploma of Engineering</li> </ul> <p>and</p> <p>Two years' experience in building services design within the scope of work for this class.</p>
	<p><b>Domestic</b></p> <p>An appropriate Certificate (AQF 4)</p> <p>(Suitable qualifications may include MEM40105- Certificate IV in Engineering); and</p> <p>Two years' experience in building services design within the scope of work for this class.</p>
<b>Electrical</b>	<p><b>Restricted</b></p> <p>An appropriate Advanced Diploma (AQF 6)</p> <p>Suitable qualifications may include:</p> <ul style="list-style-type: none"> <li>• UEE62111 Advanced Diploma of Engineering Technology – Electrical</li> <li>• UEE63011- Advanced Diploma of Electrical Systems Engineering;</li> </ul> <p>and</p> <p>Three years' experience in building services design within the scope of work for this class.</p>

	<p><b>Limited</b></p> <p>An appropriate Diploma (AQF 5); and</p> <p>Two years' experience in building services design within the scope of work for this class.</p>
	<p><b>Domestic</b></p> <p>An appropriate Certificate (AQF 4)</p> <p>Suitable qualifications may include:</p> <ul style="list-style-type: none"> <li>• UEE4301 I - Certificate IV in Electrical Equipment and Systems</li> <li>• MEM40105- Certificate IV in Engineering Certificate IV in Engineering; and</li> </ul> <p>Two years' experience in building services design within the scope of work for this class.</p>
<b>Hydraulic</b>	<p><b>Restricted</b></p> <p>An appropriate Advanced Diploma (AQF 6); and</p> <p>Three years' experience in building services design within the scope of work for this class.</p>
	<p><b>Limited</b></p> <p>An appropriate Diploma (AQF 5)</p> <p>Suitable qualifications may include:</p> <ul style="list-style-type: none"> <li>• CPC50612 - Diploma of Hydraulic Services Design</li> <li>• CPC50412 - Diploma of Plumbing and Services; and</li> </ul> <p>Two years' experience in building services design within the scope of work for this class.</p>
	<p><b>Domestic</b></p> <p>An appropriate Certificate (AQF 4)</p> <p>(Suitable qualifications may include CPC4091 I - Certificate IV in Plumbing and Services); and</p> <p>Two years' experience in building services design within the scope of work for this class</p>
<b>Fire protection</b>	<p><b>Restricted</b></p> <p>An appropriate Advanced Diploma (AQF 6) and</p> <p>Three years' experience in building services design within the scope of work for this class.</p>
	<p><b>Limited</b></p> <p>An appropriate Diploma (AQF 5).</p> <p>Suitable qualifications may include:</p>

	<ul style="list-style-type: none"> <li>• CPC50509 - Diploma of Fire Systems Design</li> <li>• CPC50412 - Diploma of Plumbing and Services</li> </ul> <p>Two years' experience in building services design within the scope of work for this class.</p>
	<p><b>Domestic</b></p> <p>An appropriate Certificate (AQF 4); and</p> <p>Two years' experience in building services design within the scope of work for this class</p>
<b>Insurance</b>	<ul style="list-style-type: none"> <li>• Professional Indemnity; <ul style="list-style-type: none"> <li>○ see Part 9 for insurance requirements for licensees</li> </ul> </li> </ul>
<b>Licence application fee</b>	Applicant to pay the fee(s) as prescribed in the regulations made under the Act
<b>Obligations of every licensee after a licence has been granted:</b>	
Continuing Professional Development	<ul style="list-style-type: none"> <li>• 20 points minimum per annum; <ul style="list-style-type: none"> <li>○ Refer to the CPD scheme in Part 8 for general details or an approved industry association CPD scheme</li> </ul> </li> </ul>
Code of Practice	<ul style="list-style-type: none"> <li>• To observe or apply the relevant Codes <ul style="list-style-type: none"> <li>○ Reference applicable Codes in Parts 10 and 11 for details</li> </ul> </li> </ul>
Licence Fees (Ongoing)	<ul style="list-style-type: none"> <li>• The licensee is to pay the fee(s) as prescribed in the regulations made under the Act</li> </ul>
Insurance (Ongoing)	<ul style="list-style-type: none"> <li>• Professional Indemnity as provided in Part 9 of the Determination</li> </ul>
Any other conditions/ requirements applicable to licensees	<ul style="list-style-type: none"> <li>• If an individual licensee has been transitioned into holding a licence under a previous Determination, then those special restrictions are still applicable, and the licensee must observe them</li> <li>• Licensees who have undergone a process of assessment of a Mutual Recognition application may also be subject to special licensing conditions/ restrictions that reflects the alignment of the scope of work with the interstate licence.</li> <li>• The Administrator may grant a provisional licence to upgrade a licence from another class of Building Services Designer.</li> <li>• The Administrator may impose requirements for that provisional licence to enable progression, including working under supervision for a period to gain experience at the higher level.</li> </ul>

## Building Surveyor

Category	Building Surveyor
<b>Classes</b>	<ul style="list-style-type: none"> <li>• <b>Open</b></li> <li>• <b>Limited</b></li> </ul>
<b>Scope of work</b> (Standard requirements):	<p><b>Open</b></p> <p>Statutory functions of a building surveyor under the <i>Building Act 2016</i> concerning:</p> <ul style="list-style-type: none"> <li>(1) All classes of buildings of unrestricted size; and</li> <li>(2) Temporary structures of unrestricted size</li> </ul> <p><b>Limited</b></p> <ul style="list-style-type: none"> <li>• Statutory functions of a building surveyor under the <i>Building Act 2016</i> concerning: <ul style="list-style-type: none"> <li>(1) Class 1 and 10 buildings of unrestricted size; and</li> <li>(2) Class 2 – 9 buildings, up to a maximum of three storeys in height; or a maximum floor area of 2000m<sup>2</sup>; and</li> <li>(3) Temporary structures of unrestricted size</li> </ul> </li> </ul>
Explanatory Notes on understanding this Scope of work	<ol style="list-style-type: none"> <li>1. For new work on an existing building, calculating the maximum floor area is by addition of the existing building's floor area with any new work that will increase that area.</li> <li>2. Statutory functions of a building surveyor under the Building Act include: <ul style="list-style-type: none"> <li>• Assessment of designs and associated documentation for likely compliance with the Act</li> <li>• Granting authorisations to commence work</li> <li>• Inspection of buildings, building work or demolition work, or temporary structures</li> <li>• Certification of buildings, building work and demolition work or temporary structures</li> <li>• Issuing Occupancy Permits</li> <li>• Assessing requirements for Essential Building Services and creation of Maintenance Schedules</li> <li>• Assessing requirements for work associated with building work, including protection work.</li> <li>• Liaison with permit authorities, reporting authorities and function control authorities as part of their functions</li> <li>• Compliance and enforcement functions</li> </ul> </li> </ol>
Individual licence restrictions/ conditions?	<p>The Administrator may restrict a licensee to only work on:</p> <ul style="list-style-type: none"> <li>• Certain classes or types of buildings; or</li> </ul>

	<ul style="list-style-type: none"> <li>• The preparation of Maintenance Schedules and inspection of Essential Building Services for existing buildings (and not new building work has been performed); or</li> <li>• For a specific class of employer (e.g. working for a municipal council).</li> </ul>
<b>Minimum requirements for new application requirements for this Class (not Mutual Recognition)</b>	
Qualifications (all new applicants)	<p><b>Open</b></p> <ul style="list-style-type: none"> <li>• A degree (AQF 7) in Building Surveying;</li> </ul> <p><b>Limited</b></p> <ul style="list-style-type: none"> <li>• An Advanced Diploma (AQF 6) in Building Surveying; and</li> </ul> <p><i>Additionally, for both classes, knowledge and understanding of the requirements for building and construction in Tasmania, as evidenced by completing the Pointsbuild course: “Tasmanian Building Approvals Process.”</i></p>
Experience (all new applicants)	<p><b>Open and Limited</b></p> <ul style="list-style-type: none"> <li>• A minimum of three years’ experience working within an equivalent scope of work for this category</li> </ul>
Insurance	<p><b>Open and Limited</b></p> <ul style="list-style-type: none"> <li>• Professional Indemnity; <ul style="list-style-type: none"> <li>○ see Part 9 for insurance requirements of licensees</li> </ul> </li> </ul>
Licence application fee	Applicant to pay the fee(s) as prescribed in the regulations made under the Act
<b>Obligations of every licensee after a licence has been granted:</b>	
Continuing Professional Development	<ul style="list-style-type: none"> <li>• 30 points minimum per annum for this Category; <ul style="list-style-type: none"> <li>○ Refer to the CPD scheme in Part 8 for general details or an approved industry association CPD scheme</li> </ul> </li> </ul>
Code of Practice	<ul style="list-style-type: none"> <li>• To observe or apply the relevant Code <ul style="list-style-type: none"> <li>○ Reference applicable Codes in Parts 10 and 11 for details</li> </ul> </li> </ul>
Licence Fees (Ongoing)	<ul style="list-style-type: none"> <li>• The licensee is to pay the fee(s) as prescribed in the regulations made under the Act</li> </ul>
Insurance (Ongoing)	<ul style="list-style-type: none"> <li>• Professional Indemnity as provided in Part 9 of the Determination</li> </ul>



<p>Any other conditions/ requirements applicable to licensees</p>	<ul style="list-style-type: none"><li>• If an individual licensee has been transitioned into holding a licence under a previous Determination, then those special restrictions are still applicable, and the licensee must observe them</li><li>• Licensees who have undergone a process of assessment of a Mutual Recognition application may also be subject to special licensing conditions/ restrictions that reflects the alignment of the scope of work with the interstate licence.</li></ul>
<p>Progression from Limited to Open</p>	<ul style="list-style-type: none"><li>• The Administrator may grant a provisional licence to upgrade a licence from Building Surveyor Limited to Open.</li><li>• The Administrator may impose requirements for that provisional licence to enable progression, including working under supervision for a period to gain experience at the higher Open level.</li></ul>

## Permit Authority

Category	Permit Authority
<b>Classes</b>	N/A
<b>Scope of work:</b> (Standard requirements)	<p>The licence allows the holder to perform all the statutory functions of a Permit Authority as provided for in the <i>Building Act 2016</i>, in particular Division 2 of Part 1, and the duties of a council under s.41 of that Act, including:</p> <ul style="list-style-type: none"> <li>• Providing authorisations or approvals to perform building work, demolition work or plumbing work, on-premises, buildings, structures or plumbing installations; and</li> <li>• Inspection, testing, assessment or certification of premises, buildings, building work, demolition work, plumbing work or plumbing installations; and</li> <li>• All associated functions necessary to regulate that work or ensure its compliance with the Building Act.</li> </ul> <p>Note 1: For clarification, a Permit Authority's scope of work does not include those statutory functions normally within the scope of work of a licensed building surveyor.</p> <p>Note 2: If requested to do so, or where appropriate, the Administrator may conditionally licence a person to perform the functions of a permit authority, concerning only:</p> <ul style="list-style-type: none"> <li>• plumbing work; or</li> <li>• building or demolition work; or</li> <li>• for specific Classes or types of buildings.</li> </ul>
<b>Licence restrictions/ conditions applicable</b>	<ol style="list-style-type: none"> <li>1. At all times, licensees must remain employed by a municipal council while performing the functions of a permit authority.</li> <li>2. Licence holders must notify the Administrator upon a change to, or the cessation, of their:               <ul style="list-style-type: none"> <li>• employment by a council; or</li> <li>• appointment by a council as a permit authority.</li> </ul> </li> </ol> <p>Note 3: Councils may appoint more than one person to perform the functions of a permit authority within their municipality.</p> <p>Note 4: A licensed permit authority may perform their functions on behalf of more than one municipal council on the terms as agreed by the relevant general managers of those councils.</p>
<b>Minimum requirements for new application requirements for this Class</b>	
<b>Licence pre-requisite</b>	<ul style="list-style-type: none"> <li>• Applicants must have been appointed by the general manager of a council under s.24 of the <i>Building Act 2016</i> as a permit authority and have evidence of such an appointment.</li> </ul>

	<ul style="list-style-type: none"> <li>• For this licence category, the Administrator will only accept an application from a natural person under section 22A and will not grant a licence to a Licenced Entity under s.37C of the Act.</li> </ul>
<p><b>Minimum qualifications completed (all new applicants)</b></p>	<ol style="list-style-type: none"> <li>1. Certificate IV in Government Investigations (Regulatory Compliance); or</li> <li>2. Certificate IV in Government (Statutory Compliance); or</li> <li>3. A qualification equivalent to the minimum qualification in (1) or (2) above, including any of the following: - <ul style="list-style-type: none"> <li>○ Planning qualifications <ul style="list-style-type: none"> <li>▪ Certificate IV in Local Government (Planning)</li> <li>▪ Diploma of Local Government (Planning)</li> <li>▪ Graduate Diploma of Planning</li> </ul> </li> <li>○ Building surveying qualifications <ul style="list-style-type: none"> <li>▪ Advanced Diploma of Building Surveying</li> <li>▪ Graduate Diploma of Building Surveying</li> <li>▪ Diploma of Building Surveying</li> <li>▪ Associate Diploma of Building Surveying</li> <li>▪ Are, or have been, accredited or licensed in Tasmania as a Building Surveyor or a Building Surveyor Limited</li> <li>▪ Accreditation by the AIBS under their accreditation scheme as a Building Surveyor, Building Surveyor Limited; or Assistant Building Surveyor</li> </ul> </li> <li>○ Are, or have been, accredited or licensed in Tasmania as a Building Designer, Engineer, Architect, Builder or a Plumber</li> <li>○ Local government qualifications <ul style="list-style-type: none"> <li>▪ Certificate IV in Local Government (Regulatory Services)</li> <li>▪ Graduate Certificate in Local Government Management</li> <li>▪ Diploma in Local Government Management</li> </ul> </li> <li>○ Has been appointed by the council General Manager as an EHO and has performed that role for at least 1 year; or</li> <li>○ Is no longer appointed but has previously performed the statutory EHO role for a council for at least 1 year; or</li> <li>○ Holds qualifications as approved by Director of Health to be appointed by a General Manager as an EHO, and has worked for a council in an allied environmental health or plumbing inspection role for at least two years.</li> </ul> </li> </ol>

	<ul style="list-style-type: none"> <li>○ A bachelor degree or a graduate diploma in: <ul style="list-style-type: none"> <li>▪ Law, public administration or similar disciplines.</li> </ul> </li> </ul> <p>Note 2: the Administrator has a discretion to accept an application from a person appointed by a council general manager under s.24, who does not hold one the minimum qualifications specified in (1) or (2) above, but who has a mix of qualifications and experience that together are deemed equivalent skills sets.</p>
<b>Experience (all new applicants)</b>	<ul style="list-style-type: none"> <li>• None specified.</li> </ul>
<b>Insurance</b>	<ul style="list-style-type: none"> <li>• Professional Indemnity as per Part 9 of the Determination</li> </ul>
<b>Licence application fee</b>	<ul style="list-style-type: none"> <li>• An applicant is to pay the fee(s) as prescribed in the regulations made under the Act</li> </ul>
<b>Any other conditions/ requirements applicable to licensees</b>	<ul style="list-style-type: none"> <li>• Upon application, persons who have started not yet fully completed the Certificate IV in Government (Statutory) Compliance course may be licensed on condition of their completion of that course (or a similar course) within a specified period.</li> </ul>
<b>Obligations of every licensee after a licence has been granted:</b>	
<b>Continuing Professional Development</b>	<ul style="list-style-type: none"> <li>• 12 points minimum per year; <ul style="list-style-type: none"> <li>○ refer to the CPD scheme in Part 8 for details</li> </ul> </li> </ul>
<b>Code of Practice</b>	<ul style="list-style-type: none"> <li>• To observe or apply the relevant Codes <ul style="list-style-type: none"> <li>○ Reference applicable Codes in Parts 10 and 11 for details</li> </ul> </li> </ul>
<b>Licence Fees (Ongoing)</b>	<ul style="list-style-type: none"> <li>• To be paid at the prescribed rate as per the regulations</li> </ul>
<b>Insurance (Ongoing)</b>	<ul style="list-style-type: none"> <li>• Professional Indemnity as per Part 9 of the Determination</li> </ul>

## Builder - General construction

<b>Category</b>	<b>Builder</b>
<b>Classes</b>	<b>General construction</b>
<b>Sub-classes</b>	<ol style="list-style-type: none"> <li>1. <b>Open</b></li> <li>2. <b>Medium Rise</b></li> <li>3. <b>Low Rise</b></li> <li>4. <b>Domestic</b></li> </ol>
<b>Scope of work (1):</b> Standard requirements	<p><b>Builder - Open</b> Building work or demolition work on all classes of buildings of unrestricted sizes</p> <p><b>Medium Rise</b></p> <ol style="list-style-type: none"> <li>(1) Building work or demolition work on Class 1 and Class 10 buildings, and</li> <li>(2) Building work or demolition work to a maximum of three storeys in height, but not including Type A construction on classes 5 to 9 buildings</li> </ol> <p><b>Builder – Low Rise</b></p> <ol style="list-style-type: none"> <li>(1) Building work or demolition work on Class 1 and Class 10 buildings and Class 7b or 8 Farm buildings, and</li> <li>(2) Building work or demolition work on Classes 2 to 9 buildings of Type C construction only with a maximum floor area not exceeding 2,000m<sup>2</sup>.</li> </ol> <p><b>Builder - Domestic</b> Building work or demolition work on</p> <ul style="list-style-type: none"> <li>• Class 1 or Class 10 buildings (of unrestricted size and number of storeys); and</li> <li>• Class 2 buildings up to two storeys of Type C construction only, with a maximum floor area not exceeding 2,000m<sup>2</sup></li> </ul>
<b>Explanatory Notes</b> on Scope of work	<ul style="list-style-type: none"> <li>• A Builder, Domestic, or Low Rise, or Builder-Medium Rise may not construct additions or extensions on an existing building that will result in the entire building exceeding the maximum size of the permitted Scope of Work.</li> <li>• A builder cannot design any building work (except for types of Low Risk Work) unless they are also licensed in a designer category.</li> </ul>
<b>Scope of work (2):</b> Work on a larger building	The holder of a Builder Low Rise or Builder Medium Rise licence can perform work in an existing building of a size greater than their level of licensing would allow them to construct, provided the work undertaken does not alter or affect or is not likely to alter or affect, the structure, access or fire safety of the

	<p>building. However, examples of work prohibited under this provision include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Structural changes or changes to floor load;</li> <li>• Access for people with disabilities;</li> <li>• Provisions for escape – fire exits and travel distances;</li> <li>• Firefighting systems – mains, valves, boosters, hydrants and hose reels;</li> <li>• Fire detection and alarm systems – heat and smoke detectors, alarms, EWIS, sprinklers;</li> <li>• Emergency lighting and exit signs;</li> <li>• Compartmentation and fire separation issues – penetration of fire compartments, fire and smoke walls, fire and smoke doors;</li> <li>• Fire control centres and emergency lifts;</li> <li>• Smoke exhaust systems and stairwell pressurisation.</li> </ul>
Individual licence restrictions/ conditions	<p>The Administrator may licence individuals with restrictions to be only able to perform building work on certain classes or types of buildings: examples include:</p> <ul style="list-style-type: none"> <li>• Non-habitable structures (large Class 10, large Class 7b Farm Buildings)</li> <li>• Swimming pools and pool fencing</li> <li>• Retaining walls</li> <li>• Shop fit-outs</li> <li>• Kitchens</li> </ul>
Endorsements	<p>Any that may apply to that class of licence and how to apply for them</p> <ul style="list-style-type: none"> <li>• Roof Drainage Work endorsement (refer to the Directors Determination - Occupational Licensing - Restricted roof drainage endorsement 2018, which specifies requirements applying and holding a building licence endorsed to perform restricted roof drainage work.</li> </ul>
<p><b>Minimum requirements for new application requirements for this Class (not Mutual Recognition)</b></p>	
Qualifications (all new applicants)	<p><b>Open:</b></p> <ul style="list-style-type: none"> <li>• Building Degree; or</li> <li>• Advanced Diploma in Building and Construction (Building)</li> </ul> <p><b>Medium Rise:</b></p> <ul style="list-style-type: none"> <li>• Diploma in Building and Construction (Building), e.g. CPC50210</li> </ul> <p><b>Low Rise or Domestic:</b></p> <ul style="list-style-type: none"> <li>• Certificate IV in Building and Construction (Building); or</li> <li>• Successful completion of a course, or units of competency of a course, the Administrator has determined is equivalent</li> </ul>

	<p>to the units of competency required for the Certificate IV.</p> <ul style="list-style-type: none"> <li>○ For builders with a restricted scope of work to only perform building work on certain classes or types of buildings, successful completion of a course or units of competency relevant to the specific work to be undertaken by the licensee. The Administrator may determine what relevant courses or units are.</li> </ul>
Experience (all new applicants)	<p><b>Open:</b></p> <ul style="list-style-type: none"> <li>• Three years in the scope of work for applicants with a building trade qualification</li> <li>• Six years in the scope of work for applicants who do not have a building trade qualification</li> </ul> <p><b>Medium, Low Rise or Domestic:</b></p> <ul style="list-style-type: none"> <li>• Two years in the scope of work for applicants with a trade qualification</li> <li>• Four years in the scope of work for applicants who do not have a trade background</li> </ul> <p><b>Explanatory Note:</b> “Building trade qualification” means attainment of at least a Certificate III qualification in either:</p> <ul style="list-style-type: none"> <li>• Carpentry/ joinery</li> <li>• Bricklaying/ block laying</li> <li>• Shop-fitting</li> <li>• Concreting.</li> </ul> <p>If a qualification was achieved more than three years before an application for a licence, and the applicant does not have evidence of experience of that trade gained in the past five years, the Administrator may require an additional competency assessment.</p> <p><b>Explanatory Note:</b> “Experience in the scope of work” includes the following where the applicant was the responsible person, and the Administrator can confirm that role:</p> <ul style="list-style-type: none"> <li>• Work on different NCC Classes of buildings</li> <li>• Work on different stages of the building (footings, base, frame, cladding, completion etc.)</li> <li>• Supervision and management of the different trades working on site;</li> <li>• Projects where the applicant has coordinated and scheduled work</li> <li>• Different types of building work (new build, extensions, renovations)</li> <li>• Examples of tendering for work, dealing with clients and administering building contracts, including managing</li> </ul>

	<p>variations of contracted work</p> <ul style="list-style-type: none"> <li>• Management of building project finances, including the payment of subcontractors</li> <li>• Liaison with councils, designers, building surveyors and consultants to make application for permission to build, interpret approved plans, and carry out practical problem-solving activities before and during construction.</li> </ul> <p>Applicant's capacity to undertaking work within the scope applied for should be clearly supported by their referees.</p> <p>Examples of work experience:</p> <ul style="list-style-type: none"> <li>• where the applicant was only performing trades work; or</li> <li>• was not working within the technical scope of the licence they have applied for; or</li> <li>• as an owner-builder, that cannot be confirmed by a suitably qualified independent person -</li> </ul> <p>should be avoided, as the Administrator may decide the standard and breadth of that type of experience is inadequate or its value cannot be verified.</p>
Insurance (all classes)	<ul style="list-style-type: none"> <li>• Public Liability and Contract Works; <ul style="list-style-type: none"> <li>○ See Part 9 for general insurance requirements for licensees</li> </ul> </li> </ul>
Licence application fee	Applicant to pay the fee(s) as prescribed in the regulations made under the Act
<b>Obligations of every licensee after a licence has been granted:</b>	
Continuing Professional Development (all Classes)	<ul style="list-style-type: none"> <li>• 12 points minimum per annum for this Category; <ul style="list-style-type: none"> <li>○ Refer to the CPD Scheme in Part 8 for general details or an approved industry association CPD scheme.</li> </ul> </li> </ul>
Code of Practice	<ul style="list-style-type: none"> <li>• To observe or apply the relevant Code <ul style="list-style-type: none"> <li>○ Reference applicable Codes in Parts 10 and 11 for details</li> </ul> </li> </ul>
Licence Fees (Ongoing)	<ul style="list-style-type: none"> <li>• The licensee is to pay the fee(s) as prescribed in the regulations made under the Act</li> </ul>
Insurance (Ongoing)	<ul style="list-style-type: none"> <li>• Public Liability and Contract Works as provided in Part 9 of the Determination</li> </ul>
Any other conditions/ requirements applicable to licensees	<ul style="list-style-type: none"> <li>• If an individual licensee has been transitioned under a previous Determination into holding a conditional licence, then those special restrictions are still applicable, and the licensee must observe them</li> <li>• Licensees who have undergone a process of assessment of a Mutual Recognition application may also be subject to special</li> </ul>



	licensing conditions/ restrictions that reflects the alignment of the scope of work with the interstate licence.
<p>Progression to a higher licence level/ class for licensees</p>	<ul style="list-style-type: none"> <li>• The Administrator may grant a provisional licence to upgrade a licence from another class of Builder.</li> <li>• The Administrator may impose requirements for that provisional licence to enable progression, including working under supervision for a period to gain experience at the higher level.</li> <li>• In recognition of the traditional progression of builders from smaller, less complicated building projects to more complicated projects, a licensed builder who demonstrates the achievement of 60% of the required competencies for the next highest category (Medium Rise or Open) and who has five or more years' experience as a responsible builder, may be granted an additional Provisional Licence at the level above their current licence. Provisionally licensed practitioners may be subject to increased levels of audits and compliance checking.</li> <li>• Provisional licensing is not transferable to another State under Mutual Recognition. The building services provider will revert to the substantive level of licensing if the full qualification is not obtained within two years.</li> </ul>

## Builder - Fire Protection Services

<b>Category</b>	<b>Builder</b>
<b>Class</b>	<b>Fire Protection Services</b>
<b>Sub-classes</b>	<ol style="list-style-type: none"> <li><b>1. Open</b></li> <li><b>2. Medium Rise</b></li> <li><b>3. Low Rise</b></li> </ol>
Scope of work (1): Standard requirements:	<p><b>Fire Protection Services Builder - Open</b> Fire Protection Services building work on all classes of buildings or unrestricted size.</p> <p><b>Fire Protection Services Builder – Medium Rise</b></p> <ol style="list-style-type: none"> <li>(1) Fire Protection Services building work on Class 1 and Class 10 building; and</li> <li>(2) Fire Protection Services building work up to a maximum of three storeys in height, but not including Type A construction on Class 5 to 9 buildings.</li> </ol> <p><b>Fire Protection Services Builder – Low Rise</b></p> <ol style="list-style-type: none"> <li>(1) Fire Protection Services building work on Class 1 or Class 10 buildings; and</li> <li>(2) Fire Protection Services building work on Class 2 to 9 buildings of Type C construction with a maximum floor area not exceeding 2,000m<sup>2</sup>.</li> </ol>
Any Explanatory Notes on understanding the scope of work	<p>Fire protection services building work means work conducted concerning installing, alteration, addition, relocation or repair of any fire protection services in a building.</p> <p>A licensed Fire Protection Services Builder means the person responsible for installing or managing fire protection services building work performed on the premises.</p> <p>Licensees must only work within their scope of work and their area of competency. For example, a Builder-Fire Protection, qualified in a mechanical services stream, managing installation of a sprinkler system, may be working outside their area of competence unless they have an appropriate qualification or experience of sprinkler fitting installation fire protection work.</p>

<b>Minimum requirements for new application requirements for this Class (not Mutual Recognition)</b>	
Qualifications (all new applicants)	<p><b>Open</b></p> <ul style="list-style-type: none"> <li>Advanced Diploma – (Building Fire Protection Services)</li> </ul> <p><b>Medium Rise</b></p> <ul style="list-style-type: none"> <li>Diploma – (Building Fire Protection Services)</li> </ul> <p><b>Low Rise</b></p> <ul style="list-style-type: none"> <li>Certificate IV – (Building Fire Protection Services)</li> </ul>
Experience (all new applicants)	<p><b>Fire Protection Services Builder - Open</b></p> <ul style="list-style-type: none"> <li>Three years in the scope of work for those applicants with a building trade qualification; or</li> <li>Six years in the scope of work for those applicants without a trade qualification.</li> </ul> <p><b>Fire Protection Services Builder – Medium Rise and Low Rise</b></p> <ul style="list-style-type: none"> <li>Two years in the scope of work for those applicants with a building trade qualification (plumbing, electrical, sprinkler fitter etc.)</li> <li>Four years in the scope of work for those applicants without a trade qualification.</li> <li>Explanatory Note: “Building trade qualification” means attainment of at least a Certificate III qualification relevant to Fire Protection Services in either: <ul style="list-style-type: none"> <li>plumbing services</li> <li>mechanical services</li> <li>electrical services</li> <li>sprinkler fitting.</li> </ul> </li> </ul>
Insurance	<ul style="list-style-type: none"> <li>Public Liability and Contract Works; <ul style="list-style-type: none"> <li>See Part 9 for insurance requirements for licensees</li> </ul> </li> </ul>
Licence application fee	Applicant to pay the fee(s) as prescribed in the regulations made under the Act
<b>Obligations of every licensee after a licence has been granted:</b>	
Continuing Professional Development	<ul style="list-style-type: none"> <li>12 points minimum per annum for this Category; <ul style="list-style-type: none"> <li>Refer to the CPD Scheme in Part 8 for general details or an approved industry association CPD scheme</li> </ul> </li> </ul>
Code of Practice	<ul style="list-style-type: none"> <li>To observe or apply the relevant Code <ul style="list-style-type: none"> <li>Reference applicable Codes in Part Z for details</li> </ul> </li> </ul>

Licence Fees (Ongoing)	<ul style="list-style-type: none"> <li>The licensee is to pay the fee(s) as prescribed in the regulations made under the Act.</li> </ul>
Insurance (Ongoing)	<ul style="list-style-type: none"> <li>Public Liability and Contract Works as provided in Part 9 of the Determination</li> </ul>
Any other conditions/ requirements applicable to licensees	<ul style="list-style-type: none"> <li>If an individual licensee has been transitioned into holding a licence under a previous Determination, then those special restrictions are still applicable, and the licensee must observe them</li> <li>Licensees who have undergone a process of assessment of a Mutual Recognition application may also be subject to special licensing conditions/ restrictions that reflects the alignment of the scope of work with the interstate licence.</li> </ul>
Progression to a higher licence level/ class for licensees	<ul style="list-style-type: none"> <li>The Administrator may grant a provisional licence to upgrade a licence from another class of Building Services Designer</li> <li>The Administrator may impose requirements for that provisional licence to enable progression, including working under supervision for a period to gain experience at the higher level.</li> <li>In recognition of the traditional progression of Fire Protection Services Builders from smaller, less complicated building projects to more complicated projects, a licensed Fire Protection Services Builder who demonstrates the achievement of 60% of the required competencies for the next highest category (Medium Rise or Open) and who has five or more years' experience as a responsible builder, may be granted an additional Provisional Licence at the level above their current licensing. Provisionally licensed practitioners may be subject to increased levels of audits and compliance checking.</li> <li>Provisional licensing is not transferable to another State under Mutual Recognition. The building services provider will revert to the substantive level of licensing if the full qualification is not obtained within two years.</li> </ul>

## Builder - Demolisher

<b>Category</b>	<b>Builder</b>
<b>Class</b>	<b>Builder - Demolisher</b>
<b>Sub-classes</b>	<ol style="list-style-type: none"> <li>1. <b>Open</b></li> <li>2. <b>Medium Rise</b></li> <li>3. <b>Low Rise</b></li> </ol>
<b>Scope of work (1):</b> Standard requirements:	<p><b>Builder Demolisher- Open</b></p> <ul style="list-style-type: none"> <li>• Demolition work on all classes of buildings or structures of unrestricted size.</li> </ul> <p><b>Builder Demolisher – Medium Rise</b></p> <ul style="list-style-type: none"> <li>• Demolition work on all classes of buildings or structures up to a maximum of five storeys in height and of unrestricted floor area</li> </ul> <p><b>Builder Demolisher – Low Rise</b></p> <ul style="list-style-type: none"> <li>• Demolition work on all classes of buildings or structures up to a maximum of two storeys in height and unrestricted floor area.</li> </ul>
Any Explanatory Notes on understanding the scope of work	<ul style="list-style-type: none"> <li>• A licensed demolisher means the person responsible for demolition building work conducted on a building site.</li> <li>• A licensed builder (general construction) with an unrestricted Scope of Work may also perform demolition work and does not need to apply for this specialist licence. This does not apply to licensed builders subject to individual licence restrictions or conditions, such as the construction of swimming pools, shop fit-outs or similar limitations.</li> </ul> <p>Scope of work includes:</p> <ul style="list-style-type: none"> <li>• complete or partial dismantling of buildings, including load-bearing elements</li> <li>• stripping of internal fittings, fixtures, services and non-load bearing elements</li> </ul>
Scope of work (2): Circumstances where work on a larger/ higher building may be permitted that is outside the standard Scope of Work:	A Demolisher - Medium Rise can perform stripping of internal fittings and non-load bearing elements in buildings up to five storeys
Individual licence restrictions/ conditions	The Administrator may allow individual licensees to only work on certain building classes

<b>Minimum requirements for new application requirements for this Class (not Mutual Recognition)</b>	
Qualifications (all new applicants)	<p><b>Open</b></p> <ul style="list-style-type: none"> <li>• Certificate IV in Demolition; or</li> <li>• equivalent competence in performing demolition work as evidenced by experience</li> </ul> <p><b>Medium Rise</b></p> <ul style="list-style-type: none"> <li>• Certificate III in Demolition; or</li> <li>• equivalent competence in performing demolition work as evidenced by experience</li> </ul> <p><b>Low Rise</b></p> <ul style="list-style-type: none"> <li>• Appropriate experience of performing demolition work for buildings of no more than two storeys.</li> </ul>
Experience (all new applicants)	<p><b>Open</b></p> <p>Evidence of having carried out, managed and arranged demolition works for at least five different projects.</p> <ul style="list-style-type: none"> <li>• At least three of these projects must have required the complete demolition of a commercial building over five storeys in height.</li> </ul> <p><b>Medium Rise</b></p> <p>Evidence of having carried out, managed and arranged demolition works for at least five different projects, each up to three storeys in height:</p> <ul style="list-style-type: none"> <li>• At least one of these projects must have related to demolishing the whole building</li> <li>• At least two of these buildings must have been commercial buildings (Class 2–9 buildings)</li> </ul> <p><b>Low Rise</b></p> <p>Evidence of having carried out, managed and arranged demolition works for at least five different projects, each up to two storeys in height:</p> <ul style="list-style-type: none"> <li>• At least one project must have been for demolition of the whole building</li> <li>• At least two of these buildings must have been commercial buildings (Class 2–9 buildings)</li> </ul>
Insurance	<ul style="list-style-type: none"> <li>• Public Liability and Contract Works;</li> <li>• See Part 9 for general insurance requirements for licensees</li> </ul>
Licence application fee	Applicant to pay the fee(s) as prescribed in the regulations made under the Act

<b>Obligations of every licensee after a licence has been granted:</b>	
CPD Continuing Professional Development	<ul style="list-style-type: none"> <li>• 12 points minimum per annum for this Category; <ul style="list-style-type: none"> <li>○ refer to the CPD scheme in Part 8 for details</li> </ul> </li> </ul>
Code of Practice	<ul style="list-style-type: none"> <li>• To observe or apply the relevant Code <ul style="list-style-type: none"> <li>○ Reference applicable Codes in Parts 10 and 11 for details</li> </ul> </li> </ul>
Licence Fees (Ongoing)	<ul style="list-style-type: none"> <li>• The licensee is to pay the fee(s) as prescribed in the regulations made under the Act</li> </ul>
Insurance (Ongoing)	<ul style="list-style-type: none"> <li>• Public Liability and Contract Works as provided in Part 9 of the Determination</li> </ul>
Any other conditions/ requirements applicable to licensees	<ul style="list-style-type: none"> <li>• If an individual licensee has been transitioned into holding a licence under a previous Determination, then those special restrictions are still applicable, and the licensee must observe them</li> <li>• Licensees who have undergone a process of assessment of a Mutual Recognition application may also be subject to special licensing conditions/ restrictions that reflects the alignment of the scope of work with the interstate licence.</li> </ul>
Progression to a higher licence level/ class for licensees	<ul style="list-style-type: none"> <li>• The Administrator may grant a provisional licence to upgrade a licence from another class of Building Services Designer</li> <li>• The Administrator may impose requirements for that provisional licence to enable progression, including working under supervision for a period to gain experience at the higher level.</li> </ul>

## Planning Consultant

<b>Category</b>	<b>Planning Consultant</b>
<b>Classes</b>	N/A
<b>Scope of work:</b> (Standard requirements)	<p>The licence allows the holder to assess and certify the proposed building or demolition work against relevant planning legislation and provide, if appropriate to do so, a statement of 'No Planning Approval Required'.</p> <ul style="list-style-type: none"> <li>The relevant building surveyor and/or permit authority may then rely on this certification from the Planning Consultant when considering consents or permits required under the <i>Land Use Planning Approvals Act 1993</i>.</li> </ul>
<b>Licence restrictions/ conditions applicable</b>	<p>Planning Consultants, licensed as building services providers under the <i>Occupational Licensing Act 2005</i>, are restricted to provide solely the statement of No Planning Approval Required and are not permitted to perform the Planning Authority functions under the <i>Land Use Planning and Approvals Act 1993</i>.</p>
<b>Minimum requirements for new application requirements for this Class</b>	
<b>Minimum qualifications completed (all new applicants)</b>	<ul style="list-style-type: none"> <li>An appropriate qualification (AQF 7 or higher) in Planning, submitted to the satisfaction of the Administrator, or</li> <li>Membership with the Planning Institute of Australia in the category of 'Full Member'.</li> </ul> <p>NOTE: Appropriate minimum qualifications include, but are not limited to Bachelor of Planning &amp; Design, Bachelor of Urban Planning &amp; Development, Bachelor of International Urban and Environmental Management, Bachelor of Arts (Planning &amp; Design), Bachelor of Applied Science (Planning)</p>
<b>Experience (all new applicants)</b>	<ul style="list-style-type: none"> <li>Five years' experience as a town planner at local government or in a private planning consultancy including two years' minimum experience in the assessment of development applications.</li> </ul>
<b>Insurance</b>	<ul style="list-style-type: none"> <li>Professional Indemnity as per Part 9 of the Determination</li> </ul>
<b>Licence application fee</b>	<ul style="list-style-type: none"> <li>An applicant is to pay the fee(s) as prescribed in the regulations made under the Act</li> </ul>
<b>Obligations of every licensee after a licence has been granted:</b>	
<b>Continuing Professional Development</b>	<ul style="list-style-type: none"> <li>12 points minimum per year; <ul style="list-style-type: none"> <li>refer to the CPD scheme in Part 8 for details</li> </ul> </li> </ul>



<b>Code of Practice</b>	<ul style="list-style-type: none"><li>• To observe or apply the relevant Codes<ul style="list-style-type: none"><li>○ Reference applicable Codes in Parts 10 and 11 for details</li></ul></li></ul>
<b>Licence Fees (Ongoing)</b>	<ul style="list-style-type: none"><li>• To be paid at the prescribed rate as per the regulations</li></ul>
<b>Insurance (Ongoing)</b>	<ul style="list-style-type: none"><li>• Professional Indemnity as per Part 9 of the Determination</li></ul>

## Part 6: Owner-builder permits and insurance

### 6.1 Approval of Owner-builder Training Course

Under section 29B(3) of the Act, the following owner-builder training courses are approved.

- All prospective owner-builders\* (except where the owner-builder is applying solely to build a Class 10a or 10b building) must complete a course from Category A and Category B.
  - Prospective owner-builders applying only to build a 10a or 10b building must successfully complete the Category B course.

(\*If the land is owned jointly, only one applicant for an owner-builder permit must complete both required Owner-builder Training Courses).

#### Category A: (Owner-builder Responsibilities)

An approved Tasmanian owner-builder course delivered by one of the following providers:

Provider	Delivery methods	Contact details
ABE Education Pty Ltd RTO No. 91794	On-line	Ph. (02) 9798 5000 E-mail <a href="mailto:info@abeeducation.com.au">info@abeeducation.com.au</a> <a href="http://www.abeeducation.edu.au">www.abeeducation.edu.au</a>
Absolute Education Pty Ltd	On-line	Ph. 1800 427 407 Mobile 0418 181 815 E-mail <a href="mailto:admin@abed.com.au">admin@abed.com.au</a> <a href="http://www.abed.com.au">www.abed.com.au</a>
Whetstone Pty Ltd	Face-to-Face Correspondence On-line	79 Melville Street Hobart Ph. (03) 6231 9095 E-mail <a href="mailto:ownerbuilder@whetstone.net.au">ownerbuilder@whetstone.net.au</a> <a href="http://www.whetstone.net.au">www.whetstone.net.au</a>

#### Category B: (Construction Industry Workplace Health and Safety Induction)

Any Construction Induction Course delivered by a Registered Training Organisation containing the national training unit CPCCWHS1001 "Prepare to Work Safely in the Construction Industry" (Release 1).

## 6.2 Owner-builder Permits – eligibility of applicants and scope of work permitted

<p><b>Scope of work</b></p>	<p>All aspects of carrying out or management of building work on:</p> <ul style="list-style-type: none"> <li>• Class 1a buildings; or</li> <li>• Class 10a and 10b buildings or structures; or</li> <li>• Class 8 <i>Farm Sheds</i> (see the definition in this Determination)</li> </ul> <p>But does not include any:</p> <ul style="list-style-type: none"> <li>• Demolition work (not associated with other building work that would require approval either as Notifiable or Permit Demolition Work); or</li> <li>• Prescribed electrical, plumbing or gas-fitting work that requires an occupational licence under the Act, or to remove any asbestos-containing materials that would require a licence under the <i>Work Health and Safety Act 2012</i>; or</li> <li>• Design of any building or demolition work.</li> </ul>
<p><b>Explanatory Notes</b> regarding work on commercial buildings:</p> <p>Certain Class 10 may have either domestic or commercial uses</p> <p>Class 7b Farm Sheds have been exempted from an owner-builder permit by the Regulations</p>	<p>Owners may not perform any building work on commercial buildings (meaning inclusive of Class 1b – 9 buildings) except for:</p> <ul style="list-style-type: none"> <li>• work on non-habitable Class 8 Farm sheds; or</li> <li>• work on a type of building exempt from requiring an Owner-builder Permit; or</li> <li>• Low Risk Work (as Determined by the Director of Building Control) that an owner or a competent person may perform.</li> </ul>
<p><b>Number of building work projects permitted</b></p>	<p>An owner may only apply for an owner-builder permit(s) for a maximum of two building work projects on Class 1a buildings, or Class 8 Farm Sheds, in each ten years.</p>
<p><b>Eligibility and application requirements</b></p>	
<p><b>Prescribed prerequisites</b> for making an Owner-builder Permit application (Parts A and B must both be fulfilled)</p>	<p><b>Part (A)</b></p> <p>The person making the application:</p> <ol style="list-style-type: none"> <li>1. is a natural person</li> <li>2. is an owner or a joint owner of particular premises the subject of the application (under s.3A(a) of the Act)</li> <li>3. is carrying out or managing, or is intending to carry out or manage, building work, on the premises; or</li> </ol>

	<ol style="list-style-type: none"> <li>4. is intending to have that building work carried out or managed on their behalf by another joint owner of the premises</li> <li>5. the applicant (other than as a licensed builder) has not already carried out or managed building work under an authorisation as an owner-builder in the ten years immediately before they have made an application for an owner-builder permit;</li> <li>6. has successfully completed the approved training course(s) within the 12 months immediately before they made an application for an owner-builder permit;</li> </ol> <p>(Note: if an application is made by more than one person (joint owners) s.29B(1)(c) of the Act is complied with if one of the applicants has successfully completed an approved owner-builder training course).</p> <p><b>Part (B)</b></p> <p>The building works the subject of the application:</p> <ol style="list-style-type: none"> <li>1. is on a building of the following Classes: <ol style="list-style-type: none"> <li>(a) 1a; or</li> <li>(b) 10a or 10b; or</li> <li>(c) 8 Farm Shed; and</li> </ol> </li> <li>2. is not the performance of Low Risk Work on those buildings, as Determined by the Director under the <i>Building Act 2016</i>; and</li> <li>3. that work will require an application for a Certificate of Likely Compliance (Permit Building Work) from a licensed Building Surveyor.</li> </ol>
<p><b>Eligibility</b> for granting an Owner-builder Permit: (reference: Section 29B)</p>	<p>A person is eligible to be granted an owner-builder permit if they:</p> <ol style="list-style-type: none"> <li>1) meet all the prescribed prerequisites of Parts A and B; and</li> <li>2) is, or will be, covered by the insurance required under section 29F(1); and</li> <li>3) has engaged a building surveyor regarding the work to be performed as an owner-builder as required under the <i>Building Act 2016</i>.</li> </ol>
<p><b>Insurance</b></p>	<p>Public Liability insurance as provided in this Determination. It is a condition of applying for a Permit that evidence is provided that applicants are or will be covered by insurance while performing building work.</p>

<b>Owner-builder Permit fee</b>	An applicant is to pay the permit fee as prescribed in the Regulations made under the Act as a condition of making an application for a Permit.
<b>Obligations of every owner, after an owner-builder permit, has been granted:</b>	
<b>Owner's obligations while permit in effect</b>	Owners observe and apply the conditions of the relevant owner-builder permit and the council building permit granted for the work.
<b>Insurance</b> (during the period of the permit)	Public Liability insurance as provided in this Determination and is to be maintained until a Certificate of Completion of Building Work is issued.
<b>Any other conditions/ requirements applicable to owner-builder</b>	On a case by case basis, the Administrator may grant an owner-builder permit subject to special conditions or restrictions. The owner-builder must observe these while the permit is in effect for that work.
<b>Special Circumstances</b>	The Administrator may issue a permit under subsection 29D(1)(a) to a person who is not eligible under section 29B to hold an owner-builder permit if the Administrator considers that "special circumstances" exist.  See the Explanatory Notes in Part 6.4 for additional information on these circumstances.

## **6.3 Owner-builder Insurance requirements**

### **6.3.1 Liability to be covered**

- (i) The policy is required to provide indemnity in respect of all claims that the owner-builder becomes legally liable to pay compensation (excluding punitive or exemplary damages) regarding personal injury or property damage caused by an occurrence connected with the building work.
- (ii) The policy includes construction liability cover for damage to existing property where the owner-builder has physical or legal control.

### **6.3.2 Amount and Period of Insurance**

- (i) The policy can limit indemnity for any one claim during any one period of insurance to not less than \$5 million.
- (ii) The policy shall include, in addition to the limit of indemnity, payment of the costs and expenses incurred by the insured with the consent of the insurer in defending or settling any claim and in respect of any one claim the policy may limit this to 20% of the limit of indemnity.

### **6.3.3 Mandatory Provisions**

The policy is to name the insured owners to whom an owner-builder permit has been granted as being the responsible builder for the building work permitted

### **6.3.4 Standard Exclusions**

Nothing in this Determination prevents an approved public liability policy from containing exceptions and exclusions (not inconsistent with this Determination) of a kind that, in accordance with standard practice, are generally included in policies of the same kind provided always that the policy shall not contain any terms which exclude cover because of claims in respect of personal injury or property damage has arisen directly or indirectly from or having been caused by or in connection with the erection, demolition, alteration of and/or addition to buildings by or on behalf of the insured, or any vibration, or any removal or weakening of support caused thereby.

### **6.3.5 Other Matters**

- (i) This Determination shall not apply to an owner-builder covered by a public liability insurance policy that was current before the date upon which this Determination takes effect, which substantially complies with Parts 4.1 and 4.2 of this Determination.
- (ii) To comply with this Determination, it is not necessary that the insurance is provided by one policy only or that the insurance be provided by one insurer only, provided that this Determination is complied with.
- (iii) The policy may provide a greater insurance cover than that required by this Determination.
- (iv) The indemnification of officers and servants of the State of Tasmania provided under the *State Service Act 2000* in the Employment Direction No.16 titled "Policy and Guidelines for the Grant of Indemnities and Legal Assistance to Public Officers of the State of Tasmania" dated 1 January 2016, satisfies the requirements of this Determination.

## **6.4 Explanatory notes regarding owner-builder permits**

### **6.4.1 Applications for an owner-builder permit**

Applications are made to Consumer Building and Occupational Services (CBOS) by the building surveyor engaged by the applicants.

There is an Approved Form completed by the Building Surveyor and sent to CBOS – see the CBOS website [www.cbos.tas.gov.au](http://www.cbos.tas.gov.au)

### **6.4.2 Purchasers of land deemed to be owners**

The definition of an owner in the Act includes purchasers, so persons who have entered a contract to buy land or a building may apply for an owner-builder permit before the transfer into their name by Land Titles Office.

A copy of the signed contract to buy the land should be included with the permit application.

### **6.4.3 Work on Classes for owner-builder permit application**

Under s.29A(1) of the Act, the Administrator may grant an owner-builder permit for building work projects on the following classes of buildings:

- Class 1a buildings (examples: house or unit)
- Class 10 buildings or structures (examples: non-habitable sheds, pools, retaining walls)
- Class 8 Farm Sheds (large non-habitable structures used for farming activities as defined in this Determination)

and that work is outside the scope of work permitted for an owner or a competent person to perform as Low Risk Work (Category 1) as Determined by the Director of Building Control under the *Building Act 2016*.

#### **Note:**

Class 7b Farm Sheds are exempt from the requirement for an application for an Owner-builder Permit. If a proposed Farm Shed is larger than is permitted to be constructed as Low Risk Work, the owner must then engage a building surveyor, as it requires a Certificate of Likely Compliance as Notifiable Work.

## **6.5 Where an owner has performed illegal works (built with no approval)**

### **Incomplete, illegal works**

If an owner has commenced building work without approval (a Notifiable Work or a Building Permit), the relevant council may require them to make that work legal by obtaining a Certificate and Permit of Substantial Compliance.

If that work is incomplete and additional work is required, then the owner may apply to be an owner-builder (alternatively, they can choose to engage a licensed builder to finish it).

In this case, the owner has to apply for an owner-builder permit in the same way as any other applicant, including completing the owner-builder course.

## Completed illegal works

If an owner has performed and building work without approval (a Notification or a Building permit) and finished the building, the relevant council may require them to make that work legal by obtaining a Certificate and Permit of Substantial Compliance to “regularise” the work.

As the building work has already been completed, making an application for permission to build as an owner-builder is inappropriate. However, that owner-builder will still be entered on the owner-builder register as having breached the Act, and they should not be able to gain any advantage by their illegal actions.

Therefore the building surveyor should forward a copy of the Certificate of Substantial Compliance directly to the Administrator of Occupational licence. The Administrator will need all the same information as if the owner-builder had applied to be an owner-builder, (i.e. title, classification, owner-builder names, current address and building work address).

The name(s) of that owner-builder will go on the Owner-builder Register as having built that project as an owner-builder and be bound by the same restriction on the number of buildings they can build as any other owner-builder.

### **Note 1:**

If any *additional building work* is required to comply with current NCC standards – then the work is not completed – and the owner will have to apply for a Certificate of Substantial Compliance.

### **Note 2:**

- Regularisation is at the discretion of the Permit Authority. Other alternatives to deal with illegal works, such as demolition, may instead be specified in the Building Order.
- Regularisation of illegal works is not an alternative to obtaining a building permit.
- The regularisation process allows for “illegal” building work to be brought to a standard that is significantly in conformance with that required for a building permit concerning all the current standards.
- A person may only apply to the Permit Authority for regularisation of illegal building if **ordered** by the permit authority by issuing a prior Building Order.

## Change from a licensed builder to owner-builder (without Owner-builder Permit) after work approved

Where a building permit was granted (as the builder was not selected at the time) and the owner then performs work as the builder (*without Owner-builder Permit*), the same procedures apply as above:

- If work has started but is incomplete – the owner applies for Owner-builder Registration through their building surveyor; or

If work is now complete and was performed by the owner as an owner-builder, their building surveyor is to forward details of the owner(s) to the Administrator, and they will be recorded as having built that building.

## Where the builder of illegal works is not known

Owners sometimes buy premises where it is later discovered that buildings, or parts of it, were built without approval.



If the council requires that any illegal work needs to be “regularised” (e.g. through a Permit of Substantial Compliance) and additional work is required to make it comply with current standards, the owner may either engage a licensed builder to do that work or apply to be an owner-builder. As the landowner, the title holder is responsible for complying with a Building Order and a Permit of Substantial Compliance.

However, the Administrator has discretion as to whether that owner’s name is entered on the owner-builder register, as they may have been forced to rectify illegal work performed by others and may not be known.

## **6.6 Number of building work projects for which an owner-builder permit may be granted**

- The maximum number of building work that an owner may apply for an owner-builder permit is two in 10 years.
- At the time of application, the applicants (other than while working as a licensed builder) must have not already carried out or managed building work projects on two such buildings in the past ten years.
- Each ten year period commences from the date that the owner applied to the Administrator for their first owner-builder permit.

### **Explanatory Note**

A “Building Work Project” means:

- Construction of a new building; or
- Building Work performed on an existing building, comprising:
  - alterations
  - additions or extensions
  - conversion of a space to a habitable room
  - repairs or alterations greater than are allowed as Low Risk Work by a home owner;

that requires a building surveyor to grant a Certificate of Likely Compliance (Permit Building Work) and a Permit Authority to grant a building permit.

- Work on non-habitable buildings (sheds, garages or similar) is not counted as building projects to which this “two in ten years” rule applies.
- Note that for a row of units separated by fire-resistant walls, each is a separate Class 1a building. Therefore if an owner wanted to build four such units, they could only build two of them as an owner-builder as the “two in ten years” rule applies. The owner will have to engage a licensed builder to construct the remaining two units.
- Owner-builders cannot construct any multi-occupancy buildings, such as attached dwellings, one above the other (known as Class 2 buildings).
- One owner-builder permit may be granted simultaneously for work on two entire buildings (e.g. as the owner wants to build both of them in the next 12 months). But that means the owner has used up both their owner-builder permits at once. They have to wait ten years before performing any more building work as an owner-builder.

## **6.7 Owner-builder training**

“Approved Training Course” means successful completion of:

1. an owner-builder awareness course, as specified in this Determination; and/or
2. the Construction Induction Course for Workplace Health and Safety issues on a construction site (commonly called the requirement to obtain a “White Card”).

For an owner-builder permit application to be accepted, at least one owner must have completed an approved owner-builder awareness course and a White Card (Construction Induction) course.

The application is solely for a Class 10a building or Class 10b structure; then, the applicant only has to do the Construction Induction course.

## **6.8 Approval to commence owner-builder work**

An Owner-builder Permit only relates to permission for *who* can do the work. A building permit from the councils is required to start work on site.

## 6.9 Special circumstances for granting an owner-builder permit

The administrator has discretion as to what constitutes special circumstances to grant an owner-builder permit under s29D of the Act. This provision applies to persons who otherwise would not meet the Act's requirements to be registered as an owner-builder.

### Explanatory Note

As general guidance only, for an application to be successful, owners must provide details of any “special” justification for the exercise of this discretion, such as the following examples:

- The owner has already completed a similar owner-builder training course in another jurisdiction; or
- The owner is a municipal council, and the building work is for the maintenance, repair or refurbishment of community or public facilities for which the public will benefit; or
- The intended nature and use of a privately owned building is for a public, charitable or community purpose for which the public will benefit; or
- The owner intends to replace a similar building, damaged or destroyed as the result of a natural disaster or event such as a flood or bushfire; or
- A licensed builder wishes to construct a building for their use as a workshop or business premises to advance their business interests or professional development as a licensee. That project is outside their scope of work as a builder.

## 6.10 Refusal of application for an owner-builder permit

If the Administrator refuses to grant an owner-builder permit under section 29D of the Act, the Administrator is to give the applicant a notice setting out the reasons for the refusal.

## 6.11 Compliance by owner-builders with permit

All owners must comply with an owner-builder permit and any conditions attached to it. Non-compliance may lead to the cancellation of the permit.

## 6.12 Audit of work or conduct of owner-builders

The Administrator may arrange for audits of the standard of work or review the conduct of any persons granted an owner-builder permit.

## 6.13 Cancellation of permit

At any time, the Administrator may cancel an owner-builder permit if satisfied that—

- the owner-builder permit was obtained by fraud or by making a false or misleading statement; or
- the holder of the owner-builder permit did not manage or carry out the building work to which that permit-related; or
- the holder of the owner-builder permit did not obtain a building permit under the *Building Act 2016*, concerning the building work to be performed under the owner-builder permit, within 12 months of the owner-builder permit being issued; or
- a building permit obtained under the *Building Act 2016*, for building work to be performed under the owner-builder permit, has expired or has been cancelled; or

- the building work performed under the owner-builder permit is detrimental to public safety; or
- the holder of the owner-builder permit does not hold the insurance required under section 29F of the Act; or
- the holder of the owner-builder permit has committed an offence under –
  - i. the Act; or
  - ii. the *Building Act 2016*.

## **6.14 When an owner-builder permit is in effect**

An owner-builder permit granted under the Act remains in effect:

- while a council building permit is in effect for that work; and
- while building work is being performed on the premises;

until a Certificate of Completion of that building work is granted.

If a council building permit has expired through a lapse of time, an owner applicant is to make a re-application to the Administrator for a renewed owner-builder permit to complete that work.

## **6.15 When an owner-builder permit is no longer in effect**

- The holder of the owner-builder permit has not obtained a building permit under the *Building Act 2016*, concerning the building work to be performed under that owner-builder permit, within 12 months of the owner-builder permit being issued; or
- No building work was commenced on site within 12 months after a council building permit was granted for that work; or
- The owners have performed building work on more than two building projects in a ten year period, otherwise than as a licensed builder; or
- The owners, under the authority of that owner-builder permit, have solely carried out permit demolition work or notifiable demolition work, and no new building work on the premises; or
- The owners or the owner-builder work to be performed are no longer covered by the insurance required by the Act and specified in this Determination; or
- The persons granted the owner-builder permit no longer own the specified premises (Owner-builder Permits are not transferrable);
- The work, for which the owner-builder permit has been issued, has been completed (e.g. a Certificate of Completion under the *Building Act 2016* has been granted); or
- The persons granted that permit have ceased to be the responsible builder and have instead engaged a licensed builder to be responsible for the building work; or
- The Administrator has cancelled the permit under s.29E of the Act.

## **Part 7: Building Services Providers that are a Licensed Entity**

### **7.1 Applications for a building services licence from an entity**

An organisation, whether incorporated or unincorporated, including a:

- company
- partnership
- statutory authority or body (including a municipal council); or
- the Crown

that intends to contract for, manage or carry out building services work, may make an application under s.37C of the Act for a licence as a building services provider, as a licensed entity, in the appropriate category or class.

### **7.2 Entity licence is optional**

Nothing in the Act or this Determination requires that an organisation contracting for, or performing building services work, must apply for or hold an entity licence if:

1. a natural person, associated with the organisation, has applied for and been granted a building services licence under s.37B of the Act, to be the responsible builder for that work; or
2. section 22A(2) of the Act provides that the organisation is exempt from being required to hold an entity licence; or
3. transitional provisions of the Act or its regulations apply to an existing licence, and they do not require an entity licence to be applied for or held.

### **7.3 Application may be made for entity licence**

An entity licence may be applied for any category or class of building services provider, except the category of Permit Authority.

### **7.4 Requirement for a licensed person of an entity**

The Administrator may only accept applications under s.37C of the Act for a building services licence to be held by an organisation, where a person has been nominated by the organisation, which is:

- (a) in the case of a body corporate, a nominated director of the body corporate who holds a building services licence as an individual; or
- (b) in the case of a partnership, a nominated partner of the partnership who holds a building services licence as an individual; or
- (c) in the case of a municipal council, or the Crown, a nominated person employed or engaged holds a building services licence as an individual.

The Administrator is to:

- (a) only issue a building services licence to an organisation if the Administrator accepts the nominated person as the licensed person of the licensed entity;
- (b) otherwise, deal with an application made under the Act as if a natural person made the application.

## **7.5 Entity's scope of work**

The scope of work of a licensed entity is the same as the licensed person who was nominated by the entity.

### **Example:**

Derwent and Tamar Builders Pty Ltd has an entity licensed as a builder. Its director, Mr Ralph Derwent, holds a licence as a Builder–Open. Therefore, the scope of work of the company is the same as the nominated director, as the organisation can only work through the efforts of responsible and qualified individual persons.

## **7.6 Insurance requirements of the licensed entity**

The type and amount of insurance required for a licensed entity is the same as for the licensed person who was nominated by the entity.

One insurance policy may cover both the licensed entity and the licensed individual.

The insurance requirements are in Part 9 of this Determination.

## **7.7 Cancellation of entity licence**

Under s.37C(5) of the Act, the Administrator may cancel an entity licence if the nominated individual person: -

- (a) ceases, or is to cease, to be the licensed person of the licensed entity; or
- (b) dies; or
- (c) has been disqualified from managing corporations under Part 2D.6 of the Corporations Act.

## Part 8: Continuing Professional Development of building services providers

### 8.1 The objective of Continuing Professional Development (CPD)

Professional development is a matter specific to an individual’s needs for maintaining awareness, knowledge and skills of the industry, technology, products and practices related to the category for which they are accredited.

The Act requires that a licence renewal application from a natural person is supported by evidence that the licensee has undertaken acceptable professional development activities. This is called Continuing Professional Development (CPD).

CPD consists of various learning activities and must be relevant to the practitioner’s area of practice. CPD may include any activity that enables the practitioner to:

- Extend or update their knowledge, skill or judgment
- Become more productive
- Understand and apply advances in technology
- Face changes in the industry
- Improve their career paths and opportunities for advancement
- Better serve the community.

It includes, but is not restricted to:

- Formal education and training activities
- Informal learning activities
- Conferences and meetings
- Presentations and papers
- Service activities for their occupation or profession.

### 8.2 Minimum CPD requirements of licensees

The minimum requirements of licensees are set out in the table below. All classes or sub-classes of a particular category of licence have the same CPD requirements:

Category of building services provider	Classes of building services provider	Required CPD points per year:
Building Surveyor	Open Limited	30 for both classes
Permit Authority	-	12

Category of building services provider	Classes of building services provider	Required CPD points per year:
Builder	General Construction Fire Protection Services Demolisher	12 for all classes
Architect	-	20
Building Designer	-	20
Engineer	Civil Building Services Fire Safety	<ul style="list-style-type: none"> <li>• 30 for all classes; or</li> <li>• The requirements of the National Engineers Register; or</li> <li>• The requirements of maintaining Chartered Engineer status.</li> </ul>
Building Services Designer	Mechanical Electrical Hydraulic Fire Protection	20 for all classes
Note: persons holding licences in several categories have a cap on their CPD points – see details in paragraph 8.7.		

### 8.3 CPD relevant to licence endorsements

Where a licensee holds specific licence endorsements, they must undertake, as part of the specified minimum number of CPD points for their licence class, activities relevant to their particular licence endorsement.

### 8.4 Acceptable CPD activities

The following are examples of the types of acceptable learning and development activities that may count towards the performance of CPD and the accumulation of points:

- (a) Technical courses
- (b) Application of technical skills and knowledge
- (c) Business management, including finance and information technology
- (d) Workplace health and safety
- (e) Personal development activities of a licensee, relevant to activities of a licensed occupation or the deriving of income from the building and construction industry
- (f) Mentoring of others in the industry.

Table I in clause 8.5 below has more details or examples of the acceptable types of CPD activities.

### 8.5 Accrual of CPD points

Generally, each hour of a learning or development activity equates to one CPD point.



There is a limit on the number of CPD points that can be accumulated per day for some types of activities. Some activities are limited to a maximum number of points that can be accumulated in a year.

For a particular activity, the Administrator, at their discretion, may allow each hourly period to be “weighted” to provide for the earning of additional CPD points during that activity period (e.g. two points per hour instead of one).

Table I below provides guidance on the accrual of CPD points for various types of training or development activities:

<b>TABLE I- Continuing Professional Development</b>		
<b>Type of activity</b>	<b>Points value or limits</b>	<b>Explanatory Notes</b>
Training or briefing delivered by or on behalf of the Administrator	1 point per hour	Government sanctioned training or briefings may attract double points if specific learning outcomes are a priority.
Nationally accredited training delivered by an RTO	1 point per hour (maximum 6 points per day)	
Reading trade or professional journals	1 point per journal (maximum of 3 points per year)	Includes reading CBOS Connections magazine
Membership of an industry association	1 point per organisation (maximum of 2 points per year)	
Approved on-line courses	1 point per hour	Approved by the Administrator. Examples of these online courses include those provided by the ABCB, Pointsbuild, the Australian Institute of Architects and nationally accredited online courses
Approved face to face training provided by an industry association	1 point per hour (maximum 6 points per day)	Industry associations are required to seek approval before the delivery of the training.
Approved face to face training provided by an employer	1 point per hour (maximum 6 points per day)	Employers are to seek approval before the delivery of training.
WorkSafe Tasmania activities	1 point per hour (maximum 6 points per year)	Includes WorkSafe Month sessions
Approved trade events	Points allocated at the time of approval (maximum of 3 points per year)	Organisers of an event must seek approval before the delivery of training.
Research to update skills	1 point per hour (maximum 3 points per year)	Licensee is to keep a record of the issue researched, the research method (e.g. websites

<b>TABLE I- Continuing Professional Development</b>		
<b>Type of activity</b>	<b>Points value or limits</b>	<b>Explanatory Notes</b>
		visited, journals consulted, etc.) and the time spent
Formal membership briefings by industry associations (e.g. quarterly update meetings)	1 point per hour (maximum 4 points per year)	
Preparing responses to government legislation or policy relating to building industry issues	2 points per hour	Responding either as an individual or on behalf of an industry association
Mentoring of students, graduates, trainees or other licensees	1 point per hour (maximum 4 points per year)	
Acting as an industry association representative on committees and working groups	1 point per hour (maximum 4 points per year)	
Writing of publications covering building industry practice or issues	1 point per hour (maximum 4 points per year)	
Preparation and revision of content for CPD programs or learning activities offered by industry associations	1 point per hour (maximum 4 points per year)	
Other approved training	1 point per hour	Providers must seek approval of training before its delivery and issue an attendance certificate.

## **8.6 Administrator's approval of specific CPD activities and allocation of points per activity**

**8.6.1** Providers of learning or training events that are to be offered to licensees as acceptable activities, and therefore may be eligible for participants' gaining CPD points, are required to seek the Administrator's approval before their delivery.

Providers must make this request for approval via email to [CBOS.info@justice.tas.gov.au](mailto:CBOS.info@justice.tas.gov.au) providing the details of the event or training, including these details:

- a) title and subject matter
- b) outline of the training or activity
- c) primary target audience (e.g. occupational group or licensee category)
- d) method of delivery
- e) the training provider or presenter

- f) duration of the training or activity
- g) expected learning outcomes.

**8.6.2** Where the Administrator has approved an industry association or body to manage and deliver CPD on behalf of its members, including the approval of courses and content delivered under the agreement.

## **8.7 Approval of industry association CPD schemes**

In addition to, or as an alternative to the CPD requirements of this Determination, the Administrator may approve specific CPD schemes operated by industry associations or bodies managed and delivered on behalf of their members and associates.

Such approval may extend to the:

- Selection of and delivery of courses or training materials;
- Auditing of licensees' participation in CPD activities; and
- Reporting to the Administrator regarding activities performed under an approved scheme to comply with the Act.

## **8.8 CPD requirements for multiple licence categories**

Where a building services provider is licensed in multiple licence categories:

- CPD activities relevant to one licence category may be counted towards any other relevant category; and
- the total number of CPD points necessary to be accrued by a licensee in a year shall be capped after they attain the minimum for the category with the highest CPD points requirement;

### **Explanatory Example**

A person licensed as a builder (minimum of 12 CPD points) and as a building designer (minimum 20 CPD points) only needs to achieve a minimum of 20 CPD points per year (and not a total of 32). However, at least some of those 20 points gained should specifically be relevant to their work as a builder.

## **8.9 Record-keeping obligations of licensees**

A licensed building services provider must retain a record of proof for the CPD activities they have undertaken and: -

- (a) it may be required to be produced when renewing their licence to validate and report on their CPD activities; and
- (b) if requested, should be made readily available for an audit of CPD activities.

Professional institutes, associations or industry bodies may, with the written approval of the Administrator, undertake to collate CPD points and maintain a record of CPD activities on behalf of their members.

## **8.10 Record-keeping obligations of employers of licensees**

The employer of a licensed building services provider must maintain a register of all employees that undertake continuing professional development. That includes recording of CPD points gained by those employees. This register can be subject to audit by the Administrator and must be made available when requested.

The register should also be made available to licensed employees to assist them in completing the CPD certification component as part of their licence renewal.

## **8.11 CPD administration generally**

The Administrator may:

- recognise existing CPD requirements of industry associations (inclusive of professional institutes, associations or bodies) as meeting the requirements of the Act for CPD, and they may be applied instead of the general CPD provisions of this Determination
- develop CPD Models for categories of licensed building services providers
- develop a register of approved CPD training activities, or the providers of such activities, and publish that information
- if specific learning outcomes are a priority, require particular categories of licensed building services providers to undertake prescribed CPD activities, that may also be in addition to the minimum requirements for the attainment of points in a period
- require licensees found guilty of disciplinary matters to undertake particular CPD activities or to attain additional CPD points in a specified period as a condition on their licence.

## **Part 9: Required Insurance for Licensed Building Services Providers**

Note: Insurance of owner-builders is contained in Part 6 of this Determination.

### **9.1 Insurance requirements – type and amount for building services providers**

#### **9.1.1 Interpretation**

In this Part of the Determination:

“Company, firm or authority” includes a

- company
- partnership
- municipal council, or other statutory authority or body
- an agency or department of the Crown:
  - that is associated with, or employs, a person who has been granted a building services provider licence under s.37B of the Act; or
- an organisation that has been granted an entity licensed as a building services provider under s.37C of the Act.

#### **9.1.2 Requirement to be covered by insurance**

- (i) To comply with section 27 of the Act, a licensed building services provider must be covered by a policy of insurance of the kind and in the amounts specified in the Table in this clause of the Determination and also comply with Parts A-C of Part 9 of this Determination.
- (ii) To comply with section 27 of the Act, a licensed building services provider is covered by the required insurance if they:
  - (a) hold the required insurance; or
  - (b) the prescribed work carried out by or on the licensee's behalf is covered by the required insurance.

Under section 27 of the Act:

- Licensed building services providers in the categories in Column 1 of the Table below are required to be covered by insurance; and
- Specified in Column 2 of the Table is the type of insurance by which those licensees are required to be covered:

<b>Table of required insurance</b>	
<b>Column 1</b>	<b>Column 2</b>
<b>Category or class of building services provider</b>	<b>Type of required insurance</b>
<b>Architect</b>	<b>Professional Indemnity in Part A</b>
<b>Building Surveyor</b>	<b>Professional Indemnity in Part A</b>
<b>Engineer</b>	<b>Professional Indemnity in Part A</b>
<b>Permit Authority</b>	<b>Professional Indemnity in Part A</b>
<b>Planning Consultant</b>	<b>Professional Indemnity in Part A</b>
<b>Building Designer</b>	<b>Professional Indemnity in Part A;</b>
	<b>or only <sup>(1)</sup> Contract Works as specified in Part C</b>
<b>Building Services Designer</b>	<b>Professional Indemnity in Part A</b>
<b>Builder (General construction)</b>	<b>Contract Works in Part C and Public Liability in Part B</b>
<b>Builder Fire Protection Services</b>	<b>Contract Works in Part C and Public Liability in Part B</b>
<b>Builder - Demolisher</b>	<b>Public Liability in Part B</b>

- (1) A Building Designer (Restricted, Limited or Domestic) whose licence is limited to designs for works which are to be built by that person as a licensed Builder (Low Rise, Medium Rise or Open) is not required to have Professional Indemnity Insurance.

## Part A – Professional Indemnity Insurance

### A.1 Liability to be covered

- A.1.1 The policy shall indemnify the licensed building services provider against legal liability resulting from any claim or claims first made against the building services provider during the period of insurance and first notified to the insurer during such a period and arising out of any act, error or omission on the part of the building services provider in the conduct of the licensed building services provider’s business as a building services provider, or concerning a company, firm or authority conducting the business of a building services provider of which the licensed building services provider is a director, partner or employee.
- A.1.2 The policy is required to provide indemnity against legal liability in respect of claims for damages or compensation made against the building services provider from misleading or deceptive conduct or conduct which is likely to mislead or deceive under sections 18, 29, 60 and 61 of Schedule 2 of the Competition and Consumer Act 2010 (Commonwealth) but excluding any claims arising from dishonest, fraudulent, malicious or criminal conduct.

### A.2 Amount and Period of Insurance

- A.2.1 The policy can specify a limit for any one claim and in the aggregate for any one period of insurance for building services providers licensed in the categories in the table below of not less than the amount listed:

Category or class of licensed Building Services provider	Minimum amount of cover
Architect	\$1 million
Building Surveyor - <i>Open</i>	\$1 million
Building Surveyor - <i>Limited</i>	\$1 million
Engineer (Civil, Building Services, Fire Safety)	\$1 million
Permit Authority	\$1 million
Planning Consultant	\$1 million
Building Designer – <i>Restricted</i>	\$1 million
Building Designer – <i>Limited</i>	\$750,000
Building Designer – <i>Domestic</i>	\$500,000
Building Services Designer – <i>Restricted</i>	\$1 million
Building Services Designer – <i>Limited</i>	\$750,000
Building Services Designer – <i>Domestic</i>	\$500,000

- A.2.2 If a licensed building services provider in one of the categories listed in A.2.1 is an individual person employed or appointed by a company, firm or authority, they shall be deemed to comply with this Determination, to the extent that their work is carried out under such employment or appointment, if the company, firm or authority’s professional indemnity policy specifically extends to that category of building services provider.

### A.3 Mandatory Provisions

- A.3.1 The policy may name the insured, either the licensed building services provider or the company, firm or authority of which the licensed building services provider is a director, partner or employee, or the nominated person of a licensed entity.

If the insured is a company, firm or authority, the policy must provide indemnity to:

- (a) persons who are at the commencement of or become during the period of insurance, directors, partners or employees of the company, firm or authority and are building services providers in categories to which Part A applies.
- (b) persons who are former directors, partners or employees of the company, firm or authority and who are or have been building services providers in categories to which Part A applies, in respect of acts, errors or omissions committed or allegedly committed whilst they were directors, partners or employees of the company, firm or authority.

A.3.2 The policy is required to contain at least one automatic reinstatement extension.

## **A.4 Standard Exclusions**

A.4.1 Nothing in this Determination prevents an approved professional indemnity policy from containing exceptions and exclusions (not inconsistent with this Determination) of a kind that, following standard practice, are generally included in policies of the same kind.

## **A.5 Allowable Limitations**

A.5.1 The policy can impose a limitation on claims under section 327 of the *Building Act 2016*, which provides that a building action cannot be brought after ten years starting on the date on which the cause of the action first accrues.

## **A.6 Other Matters**

A.6.1 The policy is required to be compatible with section 27 of the *Occupational Licensing Act 2005* and sections 20, 48, 49 and 51 of the *Insurance Contracts Act 1984* (Cth).

A.6.2 The requirements of this Part of this Determination shall not apply to a building services provider who is covered by a policy that was current before the date upon which this Determination takes effect, which substantially complies with Part A2 of this Part of the Determination.

A.6.3 To comply with this Part of the Determination, it is not necessary that the insurance is provided by one policy only or that the insurance be provided by one insurer only, provided that this Determination is complied with.

A.6.4 The policy may provide a greater insurance cover than that required by this Determination.

A.6.5 The indemnification of officers and servants of the State of Tasmania provided under the *State Service Act 2000* in the Employment Direction No. 16 titled "Policy and Guidelines for the Grant of Indemnities and Legal Assistance to Public Officers of the State of Tasmania" dated 1 January 2016, satisfies the requirements of this Part



## **Part B - Public Liability Insurance**

### **B.1 Liability to be Covered**

- B.1.1 The policy is required to provide indemnity in respect of all claims which the building services provider becomes legally liable to pay compensation (excluding punitive or exemplary damages) in respect of personal injury or property damage caused by an occurrence in connection with the building services provider's business, or as a building services provider of company, firm or authority of which the licensee is a director, partner or employee, or who is the nominated person of a licensed entity.
- B.1.2 The policy is to include construction liability cover for damage to existing property where the building services provider has physical or legal control.

### **B.2 Amount and Period of Insurance**

- B.2.1 The policy can limit indemnity for any one claim during any one period of insurance to not less than \$5 million.
- B.2.2 The policy shall include, in addition to the limit of indemnity, payment of the costs and expenses incurred by the insured with the consent of the insurer in defending or settling any claim and in respect of any one claim the policy may limit this to 20% of the limit of indemnity.

### **B.3 Mandatory Provisions**

- B.3.1 The policy may name as the insured, either the building services provider or the company, firm or authority of which the building services provider is a director, partner or employee; provided that where the insured is a company, firm or authority, or who is the nominated person of a licensed entity the policy must provide indemnity to:
- (a) persons who are, at the commencement or who become during the period of insurance, directors, partners or employees of the company, firm or authority and are licensed building services providers in categories to which Part B applies;
  - (b) persons who are former directors, partners or employees of the company, firm or authority and who are or have been building services providers in categories to which Part B applies, in respect of acts, errors or omissions committed or allegedly committed whilst they were directors, partners or employees of the company, firm or authority.

### **B.4 Standard Exclusions**

- B.4.1 Nothing in this Determination prevents an approved public liability policy from containing exceptions and exclusions (not inconsistent with this Determination) of a kind that, in accordance with standard practice, are generally included in policies of the same kind; provided always that the policy shall not contain any terms which exclude cover because of claims in respect of personal injury or property damage has arisen directly or indirectly from or having been caused by or in connection with the erection, demolition, alteration of and/or addition to buildings by or on behalf of the insured, or any vibration, or any removal or weakening of support caused thereby.

## **B.5 Other Matters**

- B.5.1 This Determination shall not apply to a building services provider covered by a public liability insurance policy that was current before the date upon which this Determination takes effect, which substantially complies with Parts B.1 and B.2 of this Determination.
- B.5.2 To comply with this Determination, it is not necessary that the insurance is provided by one policy only or that the insurance be provided by one insurer only, provided that this Determination is complied with.
- B.5.3 The policy may provide a greater insurance cover than that required by this Determination.
- B.5.4 The indemnification of officers and servants of the State of Tasmania provided under the *State Service Act 2000* in the Employment Direction No.16 titled "Policy and Guidelines for the Grant of Indemnities and Legal Assistance to Public Officers of the State of Tasmania" dated 1 January 2016, satisfies the requirements of this Part.

## **Part C – Contract Works Insurance**

### **C.1 Interpretation**

In this Part of the Determination:

#### **“Construction Period”**

The Policy will indemnify the Persons Insured against unforeseen physical loss or damage to the Contract Works during the Construction Period.

**“Contract Works”** shall mean works of engineering construction or mechanical installation or erection, including formwork, falsework, temporary works, temporary buildings, scaffolding, hoardings, principally supplied or free-issue materials, materials for incorporation in the works, and additions and alterations to or refurbishment of pre-existing buildings and structures.

**“Contract Works Insurance”** includes insurance policies of a type that comply with this Determination, including those policies commonly known as Construction Insurance.

#### **“Maintenance Period”**

A period specified in the insured Contract commencing at the expiry of the Construction Period. Where the construction contract conditions require a Maintenance Period, the Persons Insured will be indemnified against unforeseen physical loss of or damage to the Contract Works from any cause, not otherwise excluded, and which:

- (a) manifests itself during the Maintenance Period and
- (b) originates from:
  - (i) a cause (unless excluded) occurring and arising out of the Contract Works carried out by the Persons Insured during the Construction period and at the Contract Site; or
  - (ii) an act or omission of any of the Persons Insured during operations carried out by such Persons Insured in complying with the requirements of a defects policy or maintenance provisions of the contract.

**“Persons Insured”** shall mean:

- the principal, and
- the head contractor or principal contractor, and
- the licensed building services provider, and
- any director, partner, officer or employee of any of the Persons Insured, but only for liability incurred by them while acting within the scope of their duties in such capacity, and
- subcontractors of Persons Insured (excluding professional consultants) being a legal entity with whom the Persons Insured have entered into a sub-contract or sub-agreement for any part of the Contract Works, but only to the extent required for such sub-contract or sub-agreement.

#### **“Sum Insured”**

The policy of contract works will insure, as a minimum, the value of the works with allowance for removal of debris and professional fees as described in clause C.2.2 of this Part.

## **C.2 Liability to be covered**

- C.2.1 The policy of Contract Works will indemnify the Insured against unforeseen physical loss of or damage to any Contract Works insured under a policy, from any cause (unless of a type excluded), occurring during the period of insurance at the Contract Site (or elsewhere including transit, if permitted by the individual policy) during the Construction Period, and any Maintenance Period.
- C.2.2 Following loss or damage indemnifiable under C.2, the policy shall provide for costs and expenses necessarily incurred for:
- (a) Demolition of damaged Contract Works and removal of debris;
  - (b) Professional fees necessarily incurred by the Persons Insured in the reinstatement of the Contract Works.

## **C.3 Standard Exclusions**

- C.3.1 Nothing in this Determination prevents a Contract Works Insurance policy from containing exceptions and exclusions (not inconsistent with this Determination) of a kind that, following standard practice, are generally included in Contract Works Insurance policies.
- C.3.2 The policy can exclude:
- (a) the cost of making good fair wear and tear or gradual deterioration but shall not exclude the loss or damage resulting from;
  - (b) the cost of making good faulty design, workmanship and materials but shall not exclude the loss or damage resulting from;
  - (c) consequential loss of any kind, but shall not exclude loss of or damage to the works;
  - (d) damages for delay in completing or for the failure to complete the works;
  - (e) loss or damage resulting from ionising radiations or contamination by radioactivity from any nuclear fuel or any nuclear waste from the combustion of nuclear fuel resulting from any cause;
  - (f) loss or damage resulting from war, invasion, an act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, martial law or confiscation by order of any Government or public authority.

## **C.4 Other Matters**

- C.4.1 The policy is required to be compatible with section 27 of the *Occupational Licensing Act 2005* and sections 20, 48, 49 and 51 of the *Insurance Contracts Act 1984* (Cth).
- C.4.2 The indemnification of officers and servants of the State of Tasmania provided under the *State Service Act 2000* in the Employment Direction No. 16 titled "Policy and Guidelines for the Grant of Indemnities and Legal Assistance to Public Officers of the State of Tasmania" dated 1 January 2016, satisfies the requirements of this Part.

## **Part: 10 -Building Services Providers (Fit and Proper Conduct) Code of Practice 2019**

### **Code of Practice title**

Occupational Licensing (Building Services Providers Fit and Proper Conduct) Code of Practice 2019.

### **Description**

This Code is established under s.53 of the Act. It establishes matters relevant to a decision by the Administrator whether:

- an applicant for a licence to be determined under sections 37B or 43 of the Act; or
- an existing holder of a licence

is a fit and proper person to be licensed or to continue to be licensed.

### **Interpretation in this Code**

“Act” means the *Occupational Licensing Act 2005*

“Administrator” means the person appointed under section 6 of the Act as the Administrator of Occupational Licensing

“Code” means this Code of Practice

“fit and proper” has the same meaning as given by section 3 of the Act

“harassment” means conduct that:

- a. could reasonably be expected to cause another person to be apprehensive or fearful, or
- b. tends to harass, embarrass or intimidate

“improper conduct” has the meaning as given by section 90(3) of the Act

“licence holder” has the same meaning as given by section 89 of the Act

“offence” means a simple offence or a crime committed in Tasmania or elsewhere

“person” has the same meaning as given by the *Acts Interpretation Act 1931*

“prescribed work” has the same meaning as given by section 3 of the Act

“relevant matters” means the matters as set out in Section 3 of this Code

### **Section 1: Application of Code of Practice**

1.1 This Code applies to all licensed building services providers.

1.2 If an applicant or a licensee is:

- a company, this Code applies to the company and each director of the company; or
- a partner in a partnership, this Code applies to each partner.

### **Section 2: Scope of this Code of Practice**

A key requirement of the Act is good conduct by all licensees. That extends to persons who have applied for a new licence to perform prescribed work.

- To be granted a licence and retain it, all applicants or licensees must provide evidence that they are a fit and proper person and agree to remain so at all times.
- Those who direct or manage an organisation that holds a licence under the Act, including company directors, must also be fit and proper persons.

To grant an application to be licensed or to renew a licence, the Administrator must be satisfied that a person is fit and proper to perform prescribed work regarding all relevant matters. Section 3 of this Code provides details of “relevant matters” about conduct that the administrator may consider when conducting a “fit and proper” test.

### **Section 3: Matters relevant to consideration of a “fit and proper” test**

Before granting an application, the Administrator will consider all relevant matters (including, but not limited to the following) in deciding whether a person is fit and proper:

- the person has been guilty of improper conduct under section 90 of the Act
- the person has, at any time, been convicted of, or charged with, an offence against the Act or a law elsewhere which relates to (either wholly or partially) the performance of prescribed work
- whether the required insurance covers the person
- any adverse matter disclosed by the person, for example, having been convicted or found guilty of an offence involving fraud or dishonesty
- any licence, approval, certificate or other authorisation to perform prescribed work (e.g. an occupational licence as a practitioner, contractor or a building services provider) that was revoked or cancelled for any reason other than a failure to renew
- whether the person is or has been an insolvent under administration or a company under administration as defined in the Corporations Act 2001 (Cth)
- whether the person has been disqualified from managing a corporation
- whether the person has provided any false and misleading information in support of an application for a licence under the Act
- any history of the person of contraventions of the Act, or the *Building Act 2016* including regulations made under those Acts, or of the repealed *Building Act 2000* and the superseded *Building Practitioner Accreditation Scheme 2008* that was made according to that Act
- any convictions or findings of guilt disclosed in the person’s police check
- any physical or mental infirmity that may adversely affect the person’s ability to practise
- the person is or has been at any time, subject to disciplinary proceedings under the Act or a law elsewhere relating to, either wholly or partially, the performance of prescribed work
- the person has been refused a licence under the Act or a law elsewhere relating to, either wholly or partially, the performance of prescribed work
- the person has engaged in conduct that indicates:
  - disregard for the proper performance of prescribed work;
  - fraud or deception in connection with:

- contracts related to the performance of prescribed work; or
  - the performance of prescribed work;
- overcharging of a deliberate or persistent nature in connection with contracts related to the performance of prescribed work;
- harassment in connection with contracts related to the performance of prescribed work;
- the person has applied the skills, knowledge or experience of a practitioner licensed under the Act or a law elsewhere during the commission of an offence
- the person as a contractor or practitioner has, or has attempted to, transfer, lease, assign or grant the benefit of the use of their licence (either wholly or in part) to another
- the person without reasonable excuse fails to assist the Administrator in advancing:
  - compliance with the Act; or
  - investigations into suspected non-compliance with the Act
- the person has failed to disclose an adverse matter described above that later becomes known to the Administrator.

## **Section 4. Administrator to determine if “relevant matters” relate to an applicant**

- 4.1 In determining whether the person is a fit and proper person to be licensed, the Administrator considers all the circumstances relating to a relevant matter, including (but not limited to):
- whether the conduct is relevant to their fitness to practise
  - the attitude of the person concerning the relevant conduct identified
  - any further instances involving the same or similar conduct by the person
  - how recently or long ago the conduct occurred
  - any other relevant or mitigating factors.

### **Explanatory Note:**

In most cases, a single occurrence of a relevant matter may not mean the Administrator will refuse or revoke a licence. However, a pattern of conduct may indicate that a person does not have the appropriate standards of conduct or honesty to be considered a fit and proper person to practise. If the Administrator needs more information to help consider the application, they may make any enquiries necessary to make an informed decision, including obtaining further particulars from the person.

- 4.2 The existence of a relevant matter:
- may be indicative, but not necessarily conclusive, of whether a person is fit and proper;
  - whether taken singly or in conjunction with any other, maybe conclusive of whether a person is fit and proper;
  - are not necessarily to be treated as having equal significance and are not ranked in any order;

- are to be assessed according to their relevance to the type of licence held (or applied for) by the person and the scope of work permitted under that licence; and
- may be assessed according to their risk to public health, danger to the public or damage to property or infrastructure.

4.3 The weight to be attached to any relevant matter is to be assessed in the context of -

- whether it occurred in the course of, or in relation to, the carrying out of prescribed work or in connection with contracts entered related to the performance of prescribed work;
- the seriousness of any offence;
- the circumstances surrounding the offence;
- the circumstances of the offender;
- the penalty, if any, imposed on the offender (whether convicted or where a court does not proceed to conviction);
- the degree and the extent to which the offence and any record of offences exhibit an attitude of mind, or a pattern of conduct, indicative of an absence of adherence to, or respect for, either the law generally or a law that relates to duties or responsibilities that a person under this Act or a law elsewhere is obliged to discharge.

## **Section 5: Where the Administrator makes a finding of not "fit and proper"**

- If the Administrator decides to refuse an application for a licence (new or renewal) because a person is not fit and proper to be licensed, they are to notify the affected person in writing and set out the specific matters relied on for making that decision.
- A notification is to be made no later than seven business days after the administrator has made a decision.
- A written notification is to include details of the person's:
  - A. right to seek from the Administrator a review of a licensing decision, under section 80 of the Act; alternatively: -
  - B. right of appeal to the Magistrates Court (Administrative Appeals Division) regarding a licensing decision under section 82 of the Act.



## **Part: II - Building Services Providers - Code of Practice 2019**

### **Code of Practice title**

Occupational Licensing (Building Services Providers) Code of Practice 2019.

### **Description**

This Code is established under s.53 of the Act. The purpose of the Code is to:

- set standards of conduct and professionalism expected from Building Services Providers in the performance of their work
- inform the community of the standards of conduct and professionalism expected from a Building Services Providers
- provide consumer, regulatory, employing and professional bodies with a basis for making decisions regarding standards of conduct and professionalism expected from building services providers.

### **Definitions used in this Code of Practice**

**“Act”** means the *Occupational Licensing Act 2005*

**“Administrator”** means the person appointed under section 6 of the Act as the Administrator of Occupational Licensing

**“Area of competence”** means a specific area of skill for which a building services provider is qualified, experienced and capable of undertaking

**“Building services provider”** has the same meaning as given by section 3 of the Act and the Occupational Licensing (Building Services Work) Determination 2019

**“Code”** means this Code of Practice

**“Code of Practice”** has the same meaning as given by section 3 of the Act

**“Duties”** means obligations:

- placed on licensees by the Act including a relevant Code of Practice; and
- prescribed by the *Building Act 2016* Act, as applicable to various categories of persons, including building services providers

**“Improper conduct”** has the same meaning as given by section 90(3) of the Act

**“Fit and proper”** has the same meaning as given by section 3 of the Act

**“Licence holder”** has the same meaning as given by section 89 of the Act

**“Licensed Entity”** has the same meaning as given by section 3 of the Act

**“Offence”** means a simple offence or a crime committed in Tasmania or elsewhere

**“Person”** has the same meaning as given by the *Acts Interpretation Act 1931*

**“Performance Solution”** means a building solution, or a plumbing solution, that complies with the Performance Requirements of the National Construction Code, as distinct from a Deemed-to-Satisfy solution

**“Prescribed work”** has the same meaning as given by section 3 of the Act

**“Scope of work”** means the particular types and extent of prescribed work for which a building services provider is permitted to contract for, manage or undertake as the responsible person.

## **Section 1 - Application of Code of Practice**

### **1.1. Application to licence holders**

This Code applies to all building services providers that are licence holders. If a licence holder carrying out prescribed work is:

- a company, this Code applies to the company and each director of the company; or
- a partner in a partnership, this Code applies to each partner.

### **1.2 Application of other Codes of Practice made under the Act**

Where appropriate, this Code may also be read in conjunction with the:

- Occupational Licensing (Building Services Providers Fit and Proper Conduct) Code of Practice 2019; or
- Occupational Licensing (Building Surveyors) Code of Practice 2018

to determine whether a licence holder has breached the provisions of this Code.

### **1.3 Application of complementary industry codes of practice, conduct or ethics**

In addition to a Code of Practice made under the Act, the Administrator may also use relevant industry Codes of Practice or Codes of Conduct to assess a licence holder's conduct.

The following industry Codes of Practice, as varied from time to time, maybe used in this way:

- Master Builders Association of Tasmania Inc. Code of Ethics
- Housing Industry Association Ltd National Code of Ethics
- Australian Institute of Building Code of Ethics
- Australian Institute of Architects Model Statutory Code of Professional Standards and Conduct
- Building Designers Association of Australia Code of Ethics
- Engineers Australia Code of Ethics
- Australian Institute of Building Surveyors Professional Practice Policy
- The Australian Procurement and Construction Council National Code of Practice
- Code for the Tendering and Performance of Building Work 2016, published by the Australian Building and Construction Commission (ABCC).

## **Section 2 - Scope of this Code of Practice**

This code of conduct applies to all persons, including organisations, licensed as a building service provider under the Act.

Section 53(4)(c) provides that a code of practice may contain requirements to be observed for building services providers in relation to –

- (i) professional conduct, competence, diligence and integrity; and
- (ii) professional responsibilities of each occupation and class of building services providers; and
- (iii) compliance with legislation related to building services work; and
- (iv) communication with all parties involved in building services work; and
- (v) performance management of holders of a building services licence; and
- (vi) conduct and behaviour of the holder of a building services licence.

## **Section 3 - Code of Practice**

### **3.1. Duties applicable to all licence holders:**

A building services provider must:

- 1. Only undertake or manage work that within the scope of work of their licence
- 2. Perform their work in the public interest
- 3. Abide by ethical standards expected by the community for compliance with the law and reputable conduct
- 4. Not perform work where there is the potential for a conflict of interest
- 5. Maintain satisfactory levels of competence
- 6. Comply with legislative requirements
- 7. Maintain confidentiality
- 8. Take all reasonable steps to obtain all relevant facts when performing their work
- 9. Document reasons for decisions
- 10. Be accountable for the supervision, competence and conduct of staff and contractors they employ or contract with
- 11. Communicate with all relevant parties.

### **3.2. Additional duties of licensed builders, performing residential work**

- 1. Ensure that their contractual arrangements and work are under the *Residential Building Work Contracts and Dispute Resolution Act 2016*.

### **3.3. Additional duties of licensed designers**

- 1. Ensure that all aspects of design are adequately documented, including reasons for design decisions

**Explanatory note:**

This requires the mandatory minimum level of design details required to be provided by a licensed designer to enable a builder or plumber to undertake the construction of the building and for a building surveyor to assess the work for compliance with the *Building Act 2016*, the National Construction Code and relevant Australian Standards.

2. Ensure that where performance solutions are developed as a building or a plumbing solution, they will comply with relevant National Construction Code performance requirements, and they may be verified against those requirements
3. Ensure building owners are adequately informed of adopting performance solutions in a design before applying for a certificate of likely compliance.

## **Section 4 - Explanatory Statements for Code**

This Code aims to ensure that the conduct of Building Services Providers meets a reasonable standard by setting out expectations for professional conduct, competence and integrity.

Any member of the public is entitled to expect that licence holders will exercise their functions in a way that will meet or exceed these reasonable standards.

Although the Code does not give detailed advice on specific issues and areas of practice, the following explanatory statements may be used to clarify the Code's meaning and scope. The explanatory statements do not in any way limit the application of the Code.

### **4.1 Not perform work beyond their scope of work, level of competence or outside area of expertise**

A Licensed Building Services Provider must have:

- The appropriate licence for the scope of work that is intended to be performed;

#### **Explanatory Note**

Limitations are placed on the number of storeys and the floor area of buildings that may be assessed according to the level of licensing of the building surveyor. These limitations also apply to existing buildings where new building work is intended to be carried out.

For example, a practitioner licensed at the level of a Building Designer (Limited) cannot design an addition to an existing building with a rise of more than three storeys or a floor area that is greater than 2000m<sup>2</sup>.

- The appropriate level of competence and expertise for the carrying out or management of prescribed work.

#### **Explanatory Note**

For example, a building services provider may have contracted for work that requires an understanding of a complex performance solution or interpretation of requirements of an interim planning scheme. If a building services provider is not experienced in a particular area, then written advice from a suitably qualified or experienced person must be obtained.

### **4.2 Perform functions in the public interest**

A building services provider must perform work in the public interest and not take action that would compromise the health and safety of any person, or the amenity of any person's property, or significantly conflict with local planning laws. The community's interests must be placed before the interests of a client wherever there is a conflict of interest.

### **4.3 Abide by ethical standards expected by the community**

All Licensed Building Services Providers should understand the responsibilities of the category and class they are licensed.

- All licence holders must ensure they conform to acceptable standards of behaviour while undertaking work for which they are licensed.
- It is expected that they will undertake their responsibilities with appropriate professionalism.
- It is expected that they will behave with dignity and respect when dealing with clients, regulators, industry and the general public.

A Licensed Building Services Provider, must when performing their work:

- apply all relevant building laws, regulations, relevant standards and guidelines reasonably without favour;
- perform the functions with honesty, integrity and impartiality;
- not knowingly enter into any conduct that could bring, or tend to bring, their into disrepute; and
- maintain financial viability, including ensuring fees taken in advance are held against the relevant project.

#### **4.4 Not perform work where there is the potential for a conflict of interest**

A building services provider must not perform their work where there is the potential for a conflict of interest between their duty to their clients, profession, peers and the public with their personal and business interests.

#### **4.5 Maintain a satisfactory level of competence**

A building services provider must commit to a process of continuing professional development to ensure they constantly keep informed of developments in building design and construction practices, business management principles, and the law relevant to performing their work.

#### **4.6 Comply with legislative requirements**

A building services provider must comply with the legislative requirements that regulate or govern their occupation in the performance of their work. It is expected that licensees will have the knowledge, familiarity and understanding of the legislation that applies to the categories and classes they are licensed.

**Explanatory Note:**

Relevant legislation and regulatory documents (as amended from time to time) include:

National Construction Code

*Occupational Licensing Act 2005*

*Occupational Licensing (Building Services Work) Regulations 2016*

Occupational Licensing (Building Services Work) Determination 2019

*Building Act 2016*

*Building Regulations 2016*

Director's Specified List

Director's Determination - Categories of Building and Demolition Work

#### **4.7 Maintain confidentiality**

A building services provider must not divulge confidential or commercially sensitive information in the performance of their building surveying functions unless:

- directed to do so in writing by the appropriate authority following National Privacy Principles under the Privacy Act 1988 (Cth); and
- the disclosure of the information is authorised by legislation -

**Explanatory note**

For example, the *Building Act 2016* requires a building services provider to provide information to the permit authority for a permit application and the Director of Building Control for an audit.

#### **4.8 Take all reasonable steps to obtain all relevant facts**

A building services provider must:

- keep themselves informed and consider all relevant and available information when performing their work.
- demonstrate that all reasonable steps have been taken to obtain and document all available facts relevant to performing prescribed work.

**Explanatory note**

For example, building services providers should undertake a site investigation where possible to make themselves aware of any site conditions that may influence a decision on the likely compliance of the design they are considering. For instance:

- the contours of an allotment may influence the installation of site drainage
- the location of a disused cellar would need to be established
- the presence of groundwater (a spring) may significantly affect the design.

#### **4.9 Document reasons for decisions**

A building services provider must maintain properly documented reasons for key decisions.

Documented reasons must include:

- findings of fact, for example, reliance on results of tests carried out by experts;
- a reference to evidence or other material on which the finding was based, for example, reliance on Standards published by Standards Australia; and
- the reasons for the decision.

#### **Explanatory note**

Examples of decisions requiring documented reasons to be maintained by Licensed Building Services Providers:

- when designers obtain expert advice on building matters, for example, a performance solution involving complex fire engineering analysis, they must retain that documented advice to support their design decision;
- when a designer obtain advice and decide no other approvals are required under the planning scheme, they must retain the documented advice, including the source of the advice;
- if accepting a certificate from a competent person, the building surveyor must document the reasons for considering the person giving the certificate as competent and retain the documents or information relied upon when deciding the person as competent;
- document any decision made in relation to adopting a performance solution where the building services provider has concluded that the solution complies with the performance requirements of the National Construction Code.

### **4.10 Accountability of staff or contractors**

Each Licensed Building Services Provider, as the head contractor, is responsible for its employees, trainees, volunteers, contractors or consultants are they are also required to demonstrate ethical behaviour at all times as measured by this Code.

### **4.11 Communication with all parties**

All Licensed Building Services Providers should ensure they communicate relevant aspects of the work to all parties involved. It is expected that they will consider all reasonable methods to communicate with all parties involved.

**Note: Parts 12 - 14 only apply to licensed designers**

### **4.12 Ensure that all aspects of design are adequately documented and under the Building Act 2016 before issuing a certificate of likely compliance**

The design documentation must be adequate and sufficient to allow the building to be constructed under the National Construction Code.

The Director of Building Control has also determined minimum standards for the design documentation of Class 1 and 10 buildings as contained in the Director's Specified List. Designers of those buildings must ensure that these minimum standards are adhered to before submitting a design for assessment for a certificate of likely compliance.

**Explanatory note**

- For example, it is insufficient to specify cladding on a building over three storeys as Aluminium Composite Panel (ACP) because the builder will choose the right one. The Panel must be specified as an actual compliant product (e.g. ACP with a mineral core containing less than x % PE).
- Design of associated plumbing work, to the extent that its proposed location appears consistent with the design of the building work, or that proposed plumbing installations (such as allowing space for an on-site wastewater management system) have been considered in the building design process.
- If required, the design of Protection Work to protect the adjoining property or persons using adjoining land.
- If required, suitable procedures and methods for the safe demolition of buildings or parts of buildings.
- Access to or accommodation of building services (for example, whether required telecommunication cabling can be installed within a building without adversely impacting its elements such as on fire-rated walls or ceilings).

### **4.13 Ensure that performance solutions under the National Construction Code are developed under the Code**

As the National Construction Code is performance-based, one method of meeting the requirements follows an accepted construction practice or deemed-to-satisfy solution. However, if this method is not used, then there is a need to document the building or plumbing solution(s) adopted and the particular verification method, evidence of suitability and the assessment method used to demonstrate compliance with the performance standards of the code.

### **4.14 Ensure building owners are adequately informed of performance solutions before issuing a certificate of likely compliance**

Performance solutions are usually introduced to enable innovation in design or overcome issues created by a deemed-to-satisfy approach. However, they often result in ongoing maintenance, which may then become an ongoing cost to the owner. Designers must be satisfied that the owner has been adequately informed of the performance solution to make an informed decision to include that aspect of the design or have it redesigned. With permit building work, this acknowledgement by an owner is a legislative requirement.

## **Section 5 - Breaches of this Code of Conduct**

The Act gives the Administrator powers to review the performance and conduct of licence holders.

Breaches of the Code may constitute improper conduct or are relevant because a person is not a fit and proper person to hold a building services provider licence under the Act.

A distinction may be drawn between lesser breaches of a basic administrative nature that may be described as 'unsatisfactory conduct' and more serious infringements such as significant technical breaches that may compromise the safety of people in buildings, which may be judged to be 'professional misconduct'.



Breaches of the code that may constitute misconduct (and therefore *prima facie* are improper conduct) can include:

- incompetence, or a lack of adequate knowledge, skill, judgement, integrity, diligence or care in performing building surveying functions;
- compromising the health or safety of a person or the amenity of a person's property;
- seeking, accepting or agreeing to accept a benefit, whether for the benefit of the building services provider or another person, as a reward or inducement to act in contravention of the legislation;
- repeated unsatisfactory conduct.

Repeated unsatisfactory conduct that may result in improper conduct includes:

- repeated conduct that shows incompetence, or a lack of adequate knowledge, skill, judgment, integrity, diligence or care in performing prescribed work;
- repeated conduct that is contrary to a function under the *Building Act 2016*, the *Occupational Licensing Act 2005* or another relevant Act, including, for example, disregarding relevant and appropriate matters, acting outside the scope of work, acting beyond the scope of competence and contravening a Code of conduct; and
- repeated conduct of the building services provider that falls short of the standard that may reasonably be expected by the public or the licence holder's professional peers.

Breaches of the code of conduct that may lead to a building services provider not being a fit and proper person include:

- continuing to perform the functions of a building services provider while having a conflict of interest;
- acting against the public interest;
- charges or convictions for an offence; and
- behaviour that is not consistent with the ethics expected of a Licensed Building Services Provider.

More details of these "fit and proper" grounds are found in the Occupational Licensing (Building Services Providers Fit and Proper Conduct) Code of Practice 2019.

## **5.1 When Administrator makes improper conduct finding**

- If the Administrator decides that a person has engaged in improper conduct, they are to notify the affected person in writing and set out the specific matters relied on for making that decision.
- A notification is to be made no later than seven business days after the Administrator has made a decision.
- Written notification includes details of the person's right of appeal to the Magistrates Court (Administrative Appeals Division) regarding a licensing decision under section 82 of the Act.

## **Appendix – Table of Builders’ Scope of Work - Domestic, Low Rise, or Medium Rise**

### **Builder Domestic – Scope of Work**

#### **Class 1a and 1b**

1. Buildings of any rise of storeys.

#### **Class 2**

1. **One storey** buildings of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup>.
2. **Two storey** buildings of Type **C** construction up to 2000m<sup>2</sup> (Only where each sole occupancy unit has:
  - (i) Access to at least two exits<sup>1</sup> or
  - (ii) Its own direct access to a road or open space;

Refer to NCC clause C1.5 for details).

#### **Class 3-9 Buildings**

1. No work permitted

#### **Class 10a, 10b and 10c**

1. Buildings of any rise of storeys.

### **Builder Low Rise - Scope of Work**

#### **Class 1a and 1b**

1. Buildings of any rise of storeys

#### **Class 2**

1. **One storey** buildings of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup>.
2. **Two storey** buildings of Type **C** construction up to 2000m<sup>2</sup> (Only where each sole occupancy unit has:
  - (iii) Access to at least two exits<sup>1</sup> or
  - (iv) Its own direct access to a road or open space;

Refer to NCC clause C1.5 for details).

#### **Class 3**

1. **One storey** buildings of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup>.
2. **Two storey** buildings Type **C** construction up to 2000m<sup>2</sup> (Only where each sole occupancy unit has:
  - (i) Access to at least two exits<sup>1</sup> or
  - (ii) Its own direct access to a road or open space;

Refer to NCC clause C1.5 for details).

## **Class 4**

(Note: requirements are the same for a Class 2 building)

1. **One storey** buildings of Type C construction up to a max floor area of 2000m<sup>2</sup>.
2. **Two storey** buildings Type C construction up to a maximum floor area of 2000m<sup>2</sup>  
(Only where each sole occupancy unit has:
  - (i) Access to at least two exits; or
  - (ii) Its own direct access to a road or open space;

Refer to NCC clause C1.5 for details).

## **Class 5**

1. **One storey** buildings of Type C construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 18,000m<sup>3</sup>
2. **Two storey** buildings of Type C construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 18,000m<sup>3</sup>.

## **Class 6**

1. **One storey** buildings of Type C construction a maximum floor area of 2000m<sup>2</sup> and a maximum volume of fire compartments of 12,000m<sup>3</sup>.
2. **Two storey** buildings Type C construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>.

## **Class 7a & 7b**

1. **One storey** buildings of Type C construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>.
2. **Two storey** buildings of Type C construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>.

## **Class 8**

1. **One storey** buildings of Type C construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>.
2. **Two storey** buildings of Type C construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>.

## **Class 9a**

1. **One storey** buildings of Type C construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>.



### **Class 9b**

1. **One storey** buildings of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 18,000m<sup>3</sup>.

### **Class 9c**

1. **One storey** buildings of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 18,000m<sup>3</sup>.
2. **Two storey** buildings Type **C** construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 18,000m<sup>3</sup>  
(only where provided with a sprinkler system throughout and complies with maximum compartment size. Refer to NCC Clause C1.5 for details).

### **Class 10a, 10b and 10c**

1. Buildings of any rise of storeys.

## **Builder - Medium Rise Scope of Work**

### **Class 1a and 1b**

1. All buildings of any rise of storeys

### **Class 2**

1. **One storey** buildings of Type **C** construction
2. **Two storey** building Type **C** construction

(Only where each sole occupancy unit has:

- (i) Access to at least two exits' or
- (ii) Its own direct access to a road or open space;

Refer to NCC clause C1.5 for details).

3. **Two storey** building of Type **B** construction
4. **Three storey** building of Type **A** construction

### **Class 3**

1. **One storey** building of Type **C** construction
2. **Two storey** building of Type **C** construction

(Only where each sole occupancy unit has:

- (i) Access to at least two exits' or
- (ii) Its own direct access to a road or open space;

Refer to NCC clause C1.5 for details).

3. **Two storey** building of Type **B** construction.
4. **Three storey** building of Type **A** construction

#### **Class 4**

1. **One storey** building of Type **C** construction
2. **Two storey** building of Type **C** construction –  
(Only where each sole occupancy unit has:
  - (i) Access to at least two exits or
  - (ii) Its own direct access to a road or open space;Refer to NCC clause C1.5 for details).
3. **Two storey** building of Type **B** construction
4. **Three storey** building of Type **A** construction.

#### **Class 5**

1. **One storey** building of Type **C** construction up to a maximum floor area of 3000m<sup>2</sup> and maximum volume of fire compartment of 18,000m<sup>3</sup>
2. **Two storey** building of Type **C** construction up to a maximum floor area of 3000m<sup>2</sup> and maximum volume of fire compartment of 18,000m<sup>3</sup>
3. **Three storey** building of Type **B** construction up to a maximum floor area of 5500m<sup>2</sup> and maximum volume of fire compartment of 33,000m<sup>3</sup>

#### **Class 6**

1. **One storey** building of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>
2. **Two storey** building of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>
3. **Three storey** building of Type **B** construction up to a maximum floor area of 3500m<sup>2</sup> and maximum volume of fire compartment of 21,000m<sup>3</sup>

#### **Class 7a & 7b**

1. **One storey** building of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>
2. **Two storey** building of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>
3. **Three storey** building of Type **B** construction up to a maximum floor area of 3500m<sup>2</sup> and maximum volume of fire compartment of 21,000m<sup>3</sup>

### **Class 8**

1. **One storey** building of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>
2. **Two storey** building of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>
3. **Three storey** building of Type **B** construction up to a maximum floor area of 3500m<sup>2</sup> and maximum volume of fire compartment of 21,000m<sup>3</sup>

### **Class 9a**

1. **One storey** building of Type **C** construction up to a maximum floor area of 2000m<sup>2</sup> and maximum volume of fire compartment of 12,000m<sup>3</sup>
2. **Two storey** building of Type **B** construction up to a maximum floor area of 3500m<sup>2</sup> and maximum volume of fire compartment of 21,000m<sup>3</sup>

### **Class 9b**

1. **One storey** building of Type **C** construction up to a maximum floor area of 3000m<sup>2</sup> and maximum volume of fire compartment of 18,000m<sup>3</sup>
2. **Two storey** building of Type **B** construction up to a maximum floor area of 5500m<sup>2</sup> and maximum volume of fire compartment of 33,000m<sup>3</sup>

### **Class 9c**

1. **One storey** building of Type **C** construction up to a maximum floor area of 3000m<sup>2</sup> and maximum volume of fire compartment of 18,000m<sup>3</sup>
2. **Two storey** building of Type **C** construction -  
(only where provided with a fire sprinkler system throughout and complies with maximum compartment size (see NCC Clause C1.5).
3. **Two storey** building of Type **B** construction up to a maximum floor area of 5500m<sup>2</sup> and maximum volume of fire compartment of 33,000m<sup>3</sup>

### **Class 10(a), 10(b) or 10(c)**

1. Buildings of any rise of storeys