New Home Inspector

11 Secrets Home Builders Don't

Want you to know

Victorian Edition

Introduction

Building a new home is an exhilarating journey filled with promise and the realisation of lifelong dreams. The prospect of designing your perfect space, selecting every detail, and watching your vision come to life is undeniably thrilling. It's a chance to create a place uniquely tailored to your preferences, offering the comfort and functionality you've always wanted. However, amidst the excitement, it's crucial to acknowledge that the path to your dream home can be fraught with challenges. Unforeseen obstacles, hidden costs, and setbacks can test your patience. But armed with knowledge and a clear understanding of what lies ahead, you can navigate this adventure with confidence, ensuring that your vision becomes a reality, while minimising the bumps along the way.

Pros of Building a New Home:

1. Customisation: When building a new home, you have the freedom to customise every detail to your liking, from layout and design to fixtures and finishes, ensuring your home is a perfect reflection of your lifestyle and tastes.
2. Energy Efficiency: New homes are typically built with the latest energy-efficient technologies and materials, which can result in lower utility bills and a reduced carbon footprint, providing long-term savings and environmental benefits.
3. Warranty: New homes come with implied warranties that cover structural and non-structural components, giving you peace of mind and financial protection against unexpected repairs and maintenance costs.
4. Low Maintenance: New homes require less immediate maintenance and repairs compared to older dwellings, as everything is brand new and built to modern standards, reducing the need for costly replacement or repairs.
5. Latest Features: Building a new home allows you to incorporate the latest technological and design features, ensuring your living space is equipped with the most up-to-date amenities, appliances, and conveniences available in the market.

Cons of Building a New Home:

1. Unexpected or Hidden Costs: Building a new home can bring unforeseen expenses, such as site-related challenges or customizations, which may strain your budget and lead to financial stress during the construction process.

2. Construction Delays: Delays are common in new home construction due to weather, permit issues, or supply chain disruptions, which can disrupt your plans and extend your wait to move in, potentially causing inconvenience.

3. Building Defects: New homes are not immune to defects, especially in a building boom with a skilled labour shortage. Identifying and addressing defects can be time-consuming and requires a professional registered building expert with a keen eye to point them out. This is very important, because the longer these defects are left untreated, the greater the chance they become a major issue in the future. Often these issues may not become apparent until after you've moved in, and in some cases making it difficult to pin-point the exact reason for the issue to begin with. Leaving you to cover the cost of repairs without someone responsible to blame.

4. Maintenance Issues: While new homes generally require less immediate maintenance, they may have growing pains as they settle, especially if defects throughout the build have gone unnoticed. This potentially leads to unexpected repairs and maintenance, which can be an added hassle and a costly one.

5. Builder Insolvency: In some cases, a builder's financial instability can pose a risk during construction, potentially leaving you in a difficult situation if they're unable to complete the project as planned.

In the following pages of this report, we will dig deeper and uncover the 11 Secrets Home Builders Don't Want You To Know.



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Book Your Start-to-Finish Home Build Program

Executive Summary

While most home builders in Victoria, operate transparently and professionally, there are some industry practices or considerations that customers should be aware of to make informed decisions. Here are 11 insightful aspects that Victorian home buyers may want to keep in mind:

1. Hidden Site Costs: Builders may not always disclose the full extent of site preparation costs, including foundation design specific to the soil type, extent of excavation, and additional foundation work. These costs can significantly impact your budget and total build price.

2. Variation Costs: Changes or variations to the initial contract specifications can lead to additional charges. All builders dictate their own price for contract variations, so it's crucial to understand the cost implications of any alterations you may make after the building contract is signed.

3. Quality of Materials: Some builders may use lower-quality materials to cut construction costs. This has been documented in the media of recent due to the rising cost of construction materials. Ensure that you have a clear understanding of the materials being used in your home's construction, especially for critical components such as frame and roof trusses.

4. Unregulated & Unqualified Trades / Subcontractors (Victoria): Builders commonly hire subcontractors for most of the construction works required to build a home. Unfortunately, in Victoria, most trades that are subcontracted by builders are unregulated and unqualified. The Victorian Building Authority only requires Plumbers and Electricians be qualified and registered. All other trades are not. This includes concreters and carpenters, the trades responsible for the structure of your home. The foundation or slab, and the frame are the backbone of which everything else that makes a home rest on.

5. Post-Handover Defects: Builders are responsible for addressing defects in your new home even after completion. Some may not emphasise this in the building contract, so it's essential to understand the builder's obligations under the Building Act 1993.

6. Payment Schedule: It is important to review the payment schedule outlined in your building contract. Some builders may 'load-up' early progress payments to improve their cashflow, leaving very little funds for final payment upon completion. Ensure that the payment schedule aligns with the standard progress payment schedule detailed in the Building Contracts Act 1995.

7. Building Inspections: While most registered builders never actually step foot on a residential construction site, their employees or contractors are left with the responsibility of building your home. Unfortunately, like the issue with subcontractors, your building supervisor or construction manager are usually no more qualified than you. They rely heavily on the processes and systems they are given as part of their employment role to build your home. Consider hiring a professional registered New Home Inspector to inspect every step of your home's construction on your behalf.

8. Dispute Resolution (DBDRV in Victoria): Familiarise yourself with the dispute resolution process outlined in your contract and at https://www.dbdrv.vic.gov.au. Some builders may not fully explain this aspect, however this can be extremely important if disputes between you and your builder arise.

9. Home Warranty & Building Insurance: Builders must provide you with Domestic Building Insurance (DBI) when you sign your building contract. DBI must be purchased by the builder on behalf of the homeowner for all domestic building projects over $16,000. Ensure that your builder complies with this requirement to protect your investment.

10. Private Building Surveyor: Building surveyors are professionals trained in understanding the building process. They are responsible for ensuring buildings are safe, accessible and energy efficient. By law, the builder cannot appoint the building surveyor if work is domestic building work under a domestic building contract. Only you or an agent on your behalf can appoint a private building surveyor.

11. Unfair Contract Clauses: Review your building contract thoroughly before signing it. It may also pay to have a legal representative review your building contract before you sign. Victoria has laws to prevent unfair terms in contracts to build a house.



1. Hidden Site Costs

To understand Hidden Site Costs, we must first understand what Site Costs are.

Site costs refer to the expenses associated with preparing a piece of land for construction of a home. These costs are necessary to ensure that the land is suitable for building and that the construction process can proceed smoothly.

To understand Hidden Site Costs Better, let's break down the Site Cost key characteristics:

1. Soil Testing: Assessing the quality and stability of the soil to determine the right construction methods.
2. Permits: Obtaining the necessary approvals and permits from local authorities and the municipal council to start construction.
3. Excavation: Removing soil or encountered rock to create a level surface for building.

Pro Tip:

💡 Excavation is a common area for hidden site costs and unexpected expenses. Make sure you understand your land's requirements thoroughly before entering into a building contract.



4. Utilities: Extending services like water, electricity, and gas to the construction site and ultimately connected to the home for use.

5. Foundation Work: Building the base or foundation upon which the structure of the home will rest will vary depending on soil type and stability.

Pro Tip:

💡 Foundation or Slab type is a common area for hidden site costs and unexpected expenses. Make sure you understand your land's requirements thoroughly before entering into a building contract.



6. Drainage: There are two types of drainage. 1. Stormwater Drainage: Managing rainwater flow to prevent flooding or damage to the home's foundation. 2. Sanitary Drainage: Common sanitary drainage is a system of sanitary pipework that carries sewage and wastewater produced in a dwelling and connecting it to sewerage service.

Foundation Design and Soil Types:

One of the most critical factors affecting site costs is the soil type on which your home is built. Builders may not always disclose the full extent of foundation design specific to your land soil type. In Victoria, soil conditions can vary significantly from one location to another. While some areas have stable soils ideal for standard foundations, others may require specialised solutions. If your site has challenging soil conditions, such as expansive clay or loose sands, additional costs may arise for deepened foundations, bored concrete piers, screw piles, or steel reinforcement upgrades.

These additional foundation works are essential to ensure the structural integrity of your home but can significantly impact your budget and the total build price.

AUSTRALIAN STANDARD AS 2870: 2011 CLASSIFICATION BASED ON SITE REACTIVITY	
CLASS	**FOUNDATION**
A	Most sand and rock sites with little or no ground movement from moisture changes
S	Slightly reactive clay sites, which may experience only slight ground movement from moisture changes
M	Moderately reactive clay or silt sites, which may experience moderate ground movement from moisture changes
H1	Highly reactive clay sites, which may experience high ground movement from moisture changes
H2	Highly reactive clay sites, which may experience very high ground movement from moisture changes
E	Extremely reactive sites, which may experience extreme ground movement from moisture changes
P	Sites with inadequate bearing strength or where ground movement may be significantly affected by factors other than reactive soil movements due to normal moisture conditions shall be classified as P Class. P Class sites include soft or unstable foundations such as soft clay or silt or loose sands, landslip, mine subsidence, collapsing soils and soils subject to erosion, reactive sites subject to abnormal moisture conditions and sites that cannot be classified in accordance with the table above.

Extent of Excavation and Site Preparation:

The extent of excavation and site preparation needed for your new home is another area where hidden site costs can accumulate. Builders often provide quotations based on the assumption of a level or minimally sloping site. However, if your land requires extensive excavation, leveling, or land fill to create a suitable building platform, you can expect additional costs. Furthermore, land fall can necessitate retaining walls, agricultural drainage solutions, or even a split-level home design, further adding to your expenses. It's crucial to have a clear understanding of the site's topography and the associated costs before proceeding into a building contract to avoid unwelcome financial surprises when construction commences.

Site costs can vary widely depending on the location, size, and condition of the land. Understanding and budgeting for site costs is essential for anyone planning to build a home, however understanding where builders can and do hide extra costs will safeguard you against any unexpected surprises.



2. Variation Costs

Contract variations refer to any changes or alterations made to the initial contract specifications or architectural plans after they have been signed with your chosen home builder. These changes can encompass a wide range of adjustments, from shifting the position of a wall to upgrading fixtures and fittings or altering the design layout. While contract variations can enhance your home's functionality and design, they can also bring about additional costs. It's important to note that all builders dictate their own pricing fee for accepting a contract variation, and these costs can vary significantly.

The Cost Implications of Contract Variations:

It's crucial to understand the cost implications of any alterations you may make after the building contract is signed. When you request a contract variation, the builder will assess the impact of the change on materials, labour, and the project's timeline. Consequently, you can expect additional charges to cover these factors on top of a contract variation fee as set out in your contract terms and conditions. It's essential to be aware that contract variations can sometimes lead to delays in construction, further affecting the project's timeline and, subsequently, your budget if you are paying down a mortgage.

Managing Cost Concerns:

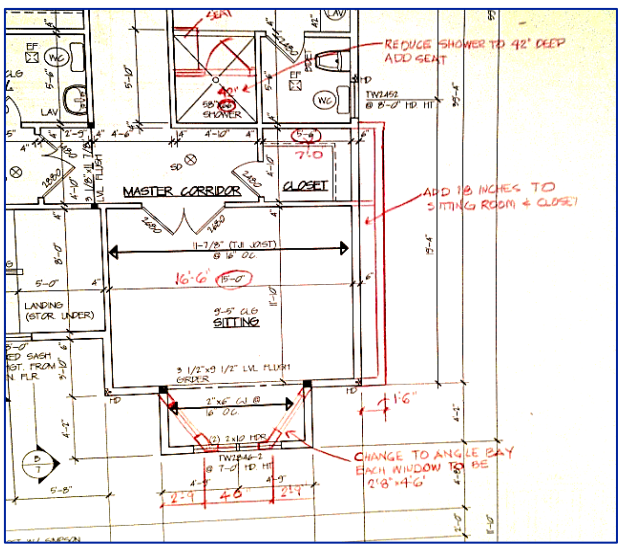
It is advised that to manage cost concerns effectively, it is wise to follow these steps:

1. Plan and Strategise: It is very important you know from the start the type of home design you want to live in that will best suit your lifestyle. Visit as many display homes as you can to get a feel for what is best for you. Once you have a design or two in mind, focus then on the types of fittings and fixtures you would like. This will ensure you include as many of your wants and needs in the initial quotation, leaving nothing left out of the subsequent building contract. This is the best way to avoid costly changes and variation fees later down the track.
2. Transparency: Maintain open communication with your builder to understand the full financial impact of your requested variation. This will ensure that everything is documented, and you are aware of all the extra costs that can arise from the change.
3. Prioritisation: Prioritise contract variations that are essential to your vision and consider deferring less critical changes to avoid budget blowouts. This will ensure you only make the necessary changes you absolutely have to have, such as structural or design changes that cannot be done after completion.
4. Budget Flexibility: Establish a contingency budget to accommodate unexpected costs that may arise from any variations you may request over the build process.

Remember, as your build begins to resemble a home, you are more likely to see changes necessary to fulfil your expectation and current lifestyle. Having a contingency budget will allow you to make these variation changes if and when they come up.

5. Documentation: Ensure that all changes are documented in writing to prevent misunderstandings or disputes. The best practice to adopt is after speaking with your builder on the phone or in person, follow up the conversation with an email relating to and reiterating what was discussed. Always request a reply from your builder. This signifies acceptance and acknowledgement.

Client requested contract variations can enhance the design and functionality of your new home but also bring about additional costs. Understanding the implications of these changes is key to effectively managing cost concerns. Maintaining open communication with your builder, careful prioritisation, budget flexibility, and thorough documentation are essential strategies for a successful and budget-conscious new home build. By following these guidelines, you can achieve your dream home while managing costs effectively.



Pro Tips:

💡 Building Owner Requested Variations: As the builder reasonably believes the variation will not require a variation to any permit, will not cause any delay and will not add more than 2% to the original contract price stated in the contract, the builder may carry out the variation.

💡 Builder Requested Variations: A builder is not entitled to recover any money in respect of a variation unless it has complied with Part 3 Clause 37 of the Domestic Building Contracts Act 1995 and can establish that the variation is made necessary by circumstances that could not have been reasonably foreseen.

3. Quality of Materials

Building your dream home is a significant investment, and one crucial factor in ensuring the longevity and value of your home is the quality of materials used during construction. Recent media reports have shed light on a growing concern: some builders may choose lower-quality materials to reduce construction costs. In this report, we will explore the impact of material quality on home construction and provide guidance on ensuring that your new home is built to last.

The Importance of Material Quality:

The quality of materials used in home construction is paramount. The structural integrity and durability of your home are directly tied to the materials employed. Subpar materials can result in issues like reduced energy efficiency due to poor wall and ceiling insulation, high moisture content causing mould, and excessive movement causing cracks to appear. It's crucial to recognise that not all materials are created equal, and some builders may be tempted to cut costs by using lower-grade options.

Materials in Focus:

When assessing material quality, it's essential to pay particular attention to critical components such as the frame and roof trusses. These structural elements provide the foundation of your home and directly impact its safety and longevity. Lower-quality frame materials, for example, using F5 instead of MGP10, may lead to structural weaknesses and issues down the line. Roof trusses constructed with substandard materials can be prone to damage and failure, resulting in a sagging roofline, water leaks and poor energy-efficiency of the home. This affects the comfort and safety of your home.



Navigating Material Quality Concerns:

To ensure that your new home is built with high-quality materials, consider the following steps:

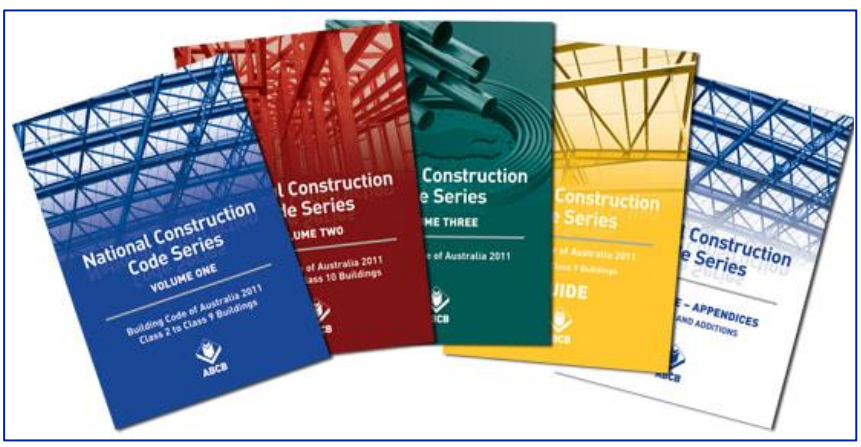
1. Documentation: Ensure that all materials relating to the construction of your home are documented in writing either in the contract specifications, architectural plans or structural engineering drawings to prevent misunderstandings or disputes. The best practice to adopt is to insist all building related materials be listed on the initial quotation. This will ensure that from the beginning you know exactly what is included in your home build.

2. Builder Reputation: Research and select a builder with a reputable track record for using quality materials. You can do this by reading through forums or public reviews such as productreview.com.au or Google reviews.

3. Ask Questions: If something is not exclusively stipulated, or you are unsure, ask! Expectations can lead to disappointment, so enquire about the materials to be used in critical areas of the home and request documentation or manufacturer specifications to clear your mind.

4. Independent Building Inspections: Hire a professional registered New Home Inspector to assess the materials and construction quality throughout the building process. This will ensure your home build is a compliant home that is free from defects and poor quality. It's like a health check for your home, only instead of reporting issues when it's too late, they can be identified before they become nasty.

5. Material Standards: The National Construction Code (NCC) and Australian Standards are great sources of reference regarding the minimum requirements for building materials and building practices. Make yourself aware of industry material standards and ensure that your builder adheres to them.



4. Unregulated & Unqualified Trades / Subcontractors (Victoria)

Builders commonly enlist subcontractors to carry out specialised tasks in the construction process. While this practice is standard, it's critical to understand that, unlike plumbers and electricians, the majority of trades in Victoria are not subjected to formal registration or qualification requirements. This has been an ongoing concern that the Victorian Building Authority (VBA) has yet to address. Unlike other Australian states, vital roles such as concreters and carpenters, who are responsible for the foundational structure of your home, don't have to be qualified or even insured! The foundation or slab and the frame constitute the backbone upon which the entire home rests, underscoring their significance in the construction process.

Potential Risks and Cost Implications:

Employing unregistered and unqualified trades can lead to various concerns and potential financial repercussions. These include:

1. Quality of Workmanship: Without formal qualifications or oversight, the quality of work performed by unregistered trades may vary, potentially leading to structural issues and defects.
2. Compliance and Safety: Unregulated trades may not adhere to industry standards, potentially compromising safety and compliance of building codes, standards, and regulations.



3. Maintenance and Repairs: Poor workmanship by unqualified trades can lead to ongoing maintenance and repair issues, which can be both costly and inconvenient.
4. Reduced Property Value: A home with a history of subpar work may have a reduced resale value, as prospective buyers are often wary of properties with a history of issues or having been built by a builder with a bad track record of subpar workmanship.

Mitigating the Risks:

To mitigate these concerns, consider the following steps:

1. Builder Selection: Choose a builder with a proven track record of working with reputable and qualified tradespeople, preferably one that employs trades and doesn't subcontract to them on a as needs basis. This will ensure consistent finishes resulting in a reliable long-lasting home.
2. Independent Building Inspections: Hire a professional registered New Home Inspector to assess the construction quality throughout the building process. This will ensure your home complies with the NCC and relevant Australian Standards.

An experienced inspector will act as your vigilant eyes, catching issues before they turn into expensive headaches. From foundation to completion, protect your investment with a registered professional by your side.

3. Transparency and Communication: Maintain open communication with your builder to ensure that qualified reputable trades are employed throughout the build process.

In conclusion, the use of unregistered and unqualified trades in new home construction, particularly for critical structural elements, poses potential risks and cost concerns. By prioritising transparency, thorough inspections, and careful builder selection, homeowners can navigate these challenges and ensure the long-term integrity and value of their new home. Building with qualified and reputable professionals ultimately provides peace of mind, knowing that your investment is built on a strong and secure foundation.

Pro Tips:

❌ The registered builder behind the houses built by their company may not even be aware of you, the customer, let alone have conducted quality inspections on your home build. Volume builders depend heavily on trades and staff, sometimes at the cost of subpar results.

❌ There is a high chance your home will be built by unregistered, unregulated, and unqualified 'trades' people! The only trades people by law in Victoria that need to be registered are electricians and plumbers...that's it!

❌ There is an even higher chance your building supervisor is not a registered builder. Yet they are managing the construction of your home and the 'unregistered trades' onsite!

5. Post-Handover Defects

The completion of your new home is an exciting milestone, but it's not the end of the journey. Builders are responsible for addressing defects in your new home even after completion and handover. However, this vital aspect of the building process is not always emphasised in the building contract. It's essential for homeowners to understand their builder's obligations, potential costs, and the stress that can accompany post-handover defects in a new home if they are not addressed in a timely manner. Often, builders will include a clause in a domestic building contract that gives the builder three, six, nine or even 12 months to fix defects arising out of contracted works. However, the defect liability period should not be used to fix defects known at the time of completion. Known defects need to be fixed prior to completion and handover of the home before the final payment is made.

Understanding Your Builder's Obligations:

The Building Act 1993 **S.134** outlines that implied warranties apply to all building work and an action can be brought against a builder for up to 10 years from the date the home was completed. This right transfers to a new owner if the property is sold within this 10-year period. In layman terms, this means that builders are required to rectify any defects that arise any time after completion up to 10 years! These defects can encompass a wide range of issues, from structural problems to cosmetic imperfections. Understanding this legislation is crucial, as it ensures that homeowners are aware of their rights and can hold builders accountable for post-handover defects.

The Cost Concerns:

1. Repairs: Defects often, require repairs. Depending on the severity or complexity of the repairs required, expenses to do so can be as much as hundreds of thousands, particularly if they are structural or extensive in nature. This is why it is very important to identify defects throughout the build process and nominated these defects as builder issues before they become your financial nightmares.
2. Inconvenience: Addressing defects can disrupt your daily life and living conditions, adding an additional layer of inconvenience.
3. Time Delays: Repairs and rectifications can result in delays, potentially affecting your lifestyle and causing unnecessary stress.
4. Legal Costs: In cases where builders are uncooperative or fail to rectify identified defects, homeowners may incur legal costs to enforce their rights under the Building Act 1993.

Managing Stress and Costs:

To manage the stress and costs associated with post-handover defects, it is advised that you take the following steps:

1. Document Defects: Thoroughly document all defects, including photographs and written descriptions, to provide clear evidence.
2. Notify the Builder: Contact the builder as soon as defects are identified, and ensure all communication is in writing.
3. Builder's Response: Understand the builder's obligations and timeline for addressing defects under the Building Act 1993.
4. Independent Building Inspections: Hire a professional registered New Home Inspector to assess the construction quality throughout the building process. This will ensure that all identified defects are documented and can be referenced anytime in the future if major problems with the home arise.
5. Legal Recourse: In extreme cases where builders refuse to rectify defects, legal recourse may be necessary to ensure compliance with implied warranties. For more information, seek legal advice – including if the building work is older than 10 years.

Conclusion:

Post-handover defects in a new home can be a source of stress and potential costs for homeowners if the underlying cause was not identified earlier. Understanding the builder's obligations under the Building Act 1993 is essential for asserting your rights and holding builders accountable for rectifying defects. Thorough documentation, clear communication, independent inspections, and, in rare cases, legal recourse are essential strategies for effectively managing the challenges that can arise when addressing post-handover defects in your new home.

Pro Tip:

💡 Where possible, engage a Professional New Home Inspector to undertake your maintenance period inspection. This will ensure all builder related defects are identified and noted for rectification by the builder under the defects liability clause in the domestic building contract.

6. Payment Schedule

Building a new home is a significant financial undertaking, and understanding the payment structure or schedule outlined in your building contract is essential for a smooth and stress-free construction process. Under the Building Contracts Act 1995, Part 3 clause 40, there are specific regulations governing progress payments. It's important for homeowners to review the payment schedule carefully, as some builders may structure payments in a way that can leave you financially vulnerable if the builder goes bust. Especially if the builder received a large portion of the funds early in the build, leaving limited funds for the project completion.

Understanding Progress Payments:

Progress payments are an integral part of the home construction process. They ensure that the builder receives payments at various stages of the project, aligning with the completion of specific milestones. The Building Contracts Act 1995 Part 3 clause 40 sets out a standard progress payment schedule to protect homeowners. This schedule typically includes an initial deposit, payments at various construction stages, and a final payment upon project completion.

If your contract is to:	you pay this % of the total price...	when this stage complete.
build to lock-up stage	▪ 20% ▪ 25%	▪ Base ▪ Frame
build to fixing stage	▪ 12% ▪ 18% ▪ 40%	▪ Base ▪ Frame ▪ Lock-up
build all stages	▪ 10% ▪ 15% ▪ 35% ▪ 25%	▪ Base ▪ Frame ▪ Lock–up ▪ Fixing

Pro Tip:

💡 The Building Contracts Act 1995, Part 2 clause 11: Limit on amount of deposit.

- 5% if the total contract price is $20,000 or more.
- 10% if the total contract price is less than $20,000.

Do not pay your deposit until the builder has given you a domestic building insurance policy and certificate of currency for your property.

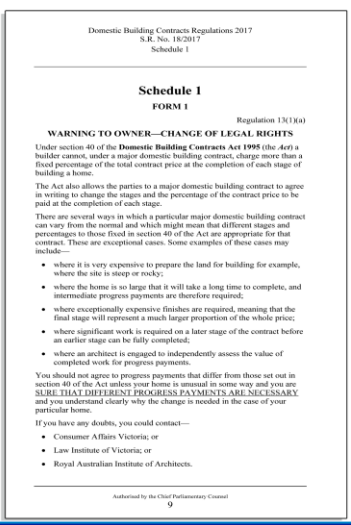
The 'Loading-Up' Issue:

Some builders may opt to 'load-up' early progress payments, which means they request larger payments at the beginning of the project. While this may be financially advantageous for the builder, it can leave homeowners extremely vulnerable in two ways: 1. You will be paying down a higher percentage of your mortgage for a longer period whilst your home is being constructed. 2. If your builder enters administration or liquidation, you could be left with an incomplete home that you have paid too much for. Meaning the funds you have left cannot cover the works required to complete the home. This uneven payment structure can create financial stress and complications and should be avoided at all costs.

Ensuring Fair Payment Schedules:

To ensure a fair payment schedule aligned with the Building Contracts Act 1995 Part 3 clause 40, consider the following steps:

1. Review the Contract: Thoroughly examine the payment schedule in your building contract and ensure it adheres to the standard progress payment schedule outlined in the Act.
2. Consult Legal Advice: If you have concerns about the payment structure proposed by your builder, seek legal advice to understand your rights and the builder's obligations.
3. Negotiate: If the payment schedule doesn't align with the Act, discuss potential modifications with your builder to create a fair and balanced payment plan.
4. Document Agreements: Any changes to the payment schedule should be documented in writing to prevent misunderstandings. This is usually done using a **FORM 2** (Regulation 13(1)(b) of the Domestic Building Contracts Regulations 2017) Method 2 Progress Payment Schedule. However, it is very important your builder provides you with a **FORM 1** (Regulation 13(1)(a) of the Domestic Building Contracts Regulations 2017) which outline a change in legal rights. P.S: *Download the documents below.*



Domestic Building Contracts Regulations 2017
S.R. No. 18/2017
Schedule 1

Schedule 1

FORM 1

Regulation 13(1)(a)

WARNING TO OWNER—CHANGE OF LEGAL RIGHTS

Under section 40 of the **Domestic Building Contracts Act 1995** (the *Act*) a builder cannot, under a major domestic building contract, charge more than a fixed percentage of the total contract price at the completion of each stage of building a home.

The Act also allows the parties to a major domestic building contract to agree in writing to change the stages and the percentage of the contract price to be paid at the completion of each stage.

There are several ways in which a particular major domestic building contract can vary from the normal and which might mean that different stages and percentages to those fixed in section 40 of the Act are appropriate for that contract. These are exceptional cases. Some examples of these cases may include—

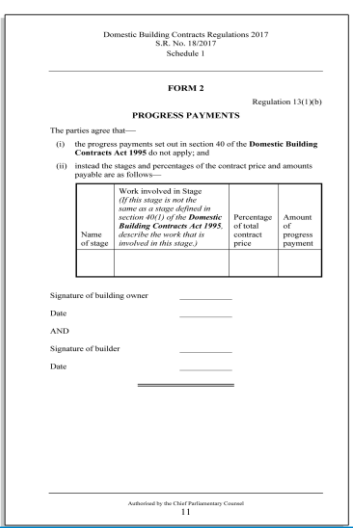
- where it is very expensive to prepare the land for building for example, where the site is steep or rocky;
- where the home is so large that it will take a long time to complete, and intermediate progress payments are therefore required;
- where exceptionally expensive finishes are required, meaning that the final stage will represent a much larger proportion of the whole price;
- where significant work is required on a later stage of the contract before an earlier stage can be fully completed;
- where an architect is engaged to independently assess the value of completed work for progress payments.

You should not agree to progress payments that differ from those set out in section 40 of the Act unless your home is unusual in some way and you are SURE THAT DIFFERENT PROGRESS PAYMENTS ARE NECESSARY and you understand clearly why the change is needed in the case of your particular home.

If you have any doubts, you could contact—

- Consumer Affairs Victoria; or
- Law Institute of Victoria; or
- Royal Australian Institute of Architects.

Authorised by the Chief Parliamentary Counsel
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Domestic Building Contracts Regulations 2017
S.R. No. 18/2017
Schedule 1

FORM 2

Regulation 13(1)(b)

PROGRESS PAYMENTS

The parties agree that—

(i) the progress payments set out in section 40 of the **Domestic Building Contracts Act 1995** do not apply; and

(ii) instead the stages and percentages of the contract price and amounts payable are as follows—

Name of stage	Work involved in Stage *(If this stage is not the same as a stage defined in section 40(1) of the **Domestic Building Contracts Act 1995**, describe the work that is involved in this stage.)*	Percentage of total contract price	Amount of progress payment

Signature of building owner _____

Date _____

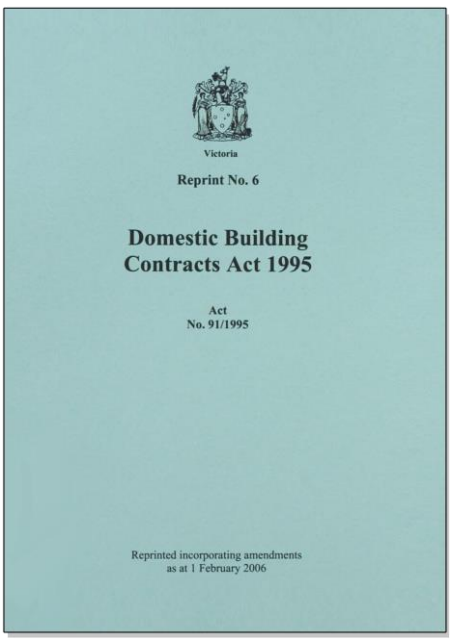
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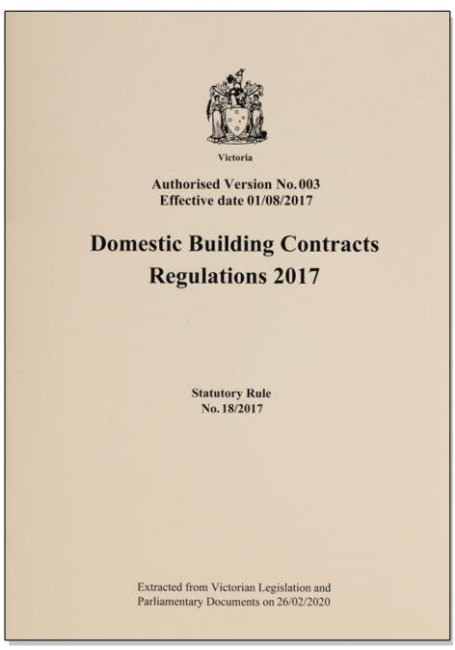
Signature of builder _____

Date _____

Authorised by the Chief Parliamentary Counsel
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Progress payments are a crucial aspect of home construction and understanding the Building Contracts Act 1995 Part 3 clause 40 is vital for protecting your financial interests. 'Loading-up' of early progress payments can create financial stress for homeowners, emphasising the importance of reviewing and, if necessary, negotiating a fair payment schedule with your builder. By adhering to the regulations outlined in the Act and maintaining open communication with your builder, you can ensure a balanced payment structure that aligns with the various stages of your construction project, providing financial peace of mind throughout the process. P.S: *Download the documents below.*





7. Building Inspections

Building your dream home is an exciting journey, but it's not without its challenges. Many homeowners find themselves facing nightmarish construction issues, unexpected expenses, and sleepless nights worrying about the quality of their new home.

Knowledge is your greatest asset when building a home. Arm yourself with the insights only a professional New Home Inspector can provide. Ensure your home is built to last, with no unwelcome surprises down the road.

Cutting corners in construction can lead to costly consequences. Hidden issues like poor waterproofing or improper foundation can lurk beneath the surface, ready to raise its' ugly head when it's least expected. You can save yourself the unnecessary headaches and costs. Having a professional registered New Home Inspector is like a health check for your home, only instead of reporting issues when it's too late, they can point them out before they become a problem.

Many people simply don't know what is expected or understand their rights when building a new home with a builder, which makes them far more vulnerable to being taken advantage of. To manage the stress and costs associated with building defects, it is advised that you take the following steps:

1. Engage a Professional Registered New Home Inspector to thoroughly conduct compliance inspections at the following stages of the build process:

   - **Review Contract & Plans:** Your New Home Inspector should be competent in reviewing your domestic building contract, specifications, and architectural and engineering plans. This will ensure you are aware of all necessary inspections, contract terms to be considerate of and possibly even any unfair contract terms your builder may have included in your building contract.

   - **Pre-Slab Inspection:** Your New Home Inspector should inspect the initial site works and verify compliance of the site preparation, excavation, and foundation work to what is required under the building permit. This may include the reduced levels (RL's), bored piers or screw pile locations (if required) and site set out.

   - **Reinforcement Inspection:** Your New Home Inspector should inspect the foundation steel works and verify compliance with the structural engineering plans, NCC and AS2870.

   - **Frame/Base Inspection:** Your New Home Inspector should inspect the completed foundation and frame to verify compliance with the NCC, AS1684, structural engineering plans and roof truss design.

- **Lockup Inspection:** Your New Home Inspector should inspect the home at lockup stage completion. This should include a thorough inspection of the roof, external wall claddings or brickwork, windows and glazing, and frame to verify compliance with the structural engineering plans, NCC, VBA guide to standards and tolerances and building permit plans.

- **Pre-Plaster Inspection:** Your New Home Inspector should inspect the home just before the builder is to install the plaster to the internal ceilings and walls. This should include a thorough inspection of the internal walls for straightness, wall and ceiling insulation and frame to verify compliance with the NCC, VBA guide to standards and tolerances and building permit plans.

- **Waterproofing Inspection:** Your New Home Inspector should inspect the home just before the builder is to start wall and floor tiling of all nominated wet areas. This should include a thorough inspection of the waterproofing system used, areas of waterproofing and to verify compliance with the manufacturers specification and installation guide, NCC and AS3740.

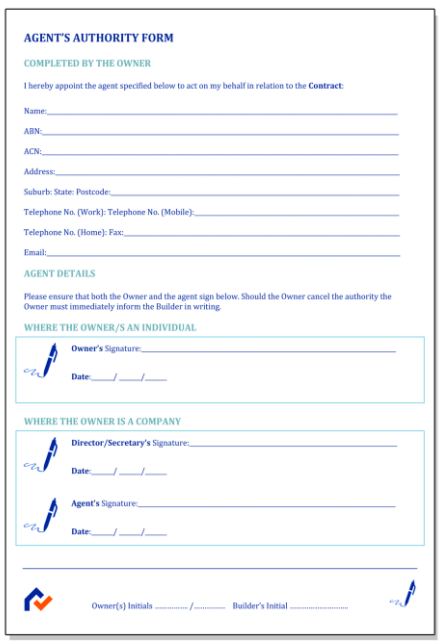
- **Practical Completion Inspection:** Your New Home Inspector should inspect the home when the builder advises you that the home has reached practical completion and is ready for a Practical Completion Inspection (PCI). This inspection should include ensuring all the works completed complies with the building permit, building contract including specifications and to verify compliance with the NCC and the VBA guide to standards and tolerances.

- **Handover Inspection:** Your New Home Inspector should inspect the home on the day of handover. This inspection should include ensuring all defects identified throughout the build process have been addressed and rectified, the works completed complies with the building permit, building contract including specifications and to verify compliance with the NCC and the VBA guide to standards and tolerances.

2. Ensure you have a detailed timeline provided by your builder outlining the estimated dates of each construction step and expected stage milestones. It is not unreasonable for you to ask for your builder's build schedule, as most if not all builders follow one. Having the build schedule allows you to know when to request an inspection of the progress, to ensure you don't miss vital inspections.

3. Know your legal rights. The building owner has every right to view and inspect the build progress! Under the Domestic Building Contracts Act 1995, Part 2 clause 19: Access to the building site; *A builder must permit the building owner (or a person authorised by the building owner) to have reasonable access to the building site and to view any part of the building works.*

4. Appoint an Authorised Agent. Providing your builder with a document showing your appointment of your authorised agent provides transparency and open communication. This is the best way to provide your builder with your authority of appointment for a New Home Inspector. P.S: *Download the document below.*



AGENT'S AUTHORITY FORM

COMPLETED BY THE OWNER

I hereby appoint the agent specified below to act on my behalf in relation to the **Contract**:

Name:_____

ABN:_____

ACN:_____

Address:_____

Suburb: State: Postcode:_____

Telephone No. (Work): Telephone No. (Mobile):_____

Telephone No. (Home): Fax:_____

Email:_____

AGENT DETAILS

Please ensure that both the Owner and the agent sign below. Should the Owner cancel the authority the Owner must immediately inform the Builder in writing.

WHERE THE OWNER/S AN INDIVIDUAL

Owner's Signature:_____

Date:____/____/____

WHERE THE OWNER IS A COMPANY

Director/Secretary's Signature:_____

Date:____/____/____

Agent's Signature:_____

Date:____/____/____

Owner(s) Initials ..... / ..... Builder's Initial .....

Pro Tip:

💡 Are you are considering one or two inspections over the entire build process of your home? This is a HUGE mistake and it leaves you exposed to unidentified defects that can result in costly repairs later.

Don't settle for one-time inspections during your new home build! Just as you wouldn't rely on a foot assessment for your overall health, ensure your home is thoroughly inspected every step of the way!!

8. Dispute Resolution (DBDRV in Victoria)

Domestic Building Dispute Resolution Victoria (DBDRV) is a government service which helps resolve domestic building disputes.

DBDRV makes it easier for builders and building owners to access a tailored dispute resolution service, which is free, fair and fast.

DBDRV's qualified and experienced conciliators help clients reach a resolution of their dispute. DBDRV Dispute Resolution Officers are supported by independent building experts, known as Assessors.

The aim of DBDRV is to resolve disputes as informally as possible, but if agreement cannot be reached through conciliation, DBDRV has the legislative power to issue binding orders to finalise the dispute.

DBDRV is an independent business unit within the Department of Justice and Community Safety and is part of the portfolio of the Minister for Consumer Affairs, Gaming and Dispute Services. It is also a part of the broader framework of the Victorian Government's oversight of the residential building sector. Other Victorian Government stakeholders include the Victorian Building Authority, Consumer Affairs Victoria, and the Victorian Managed Insurance Authority.

The Chief Dispute Resolution Officer of DBDRV is responsible for the operation of the domestic building dispute resolution scheme.

You can access further information on the DBDRV website (dbdrv.vic.gov.au). Alternatively, contact the Building Information Line on 1300 55 75 59 between 9:00 am – 5:00 pm, Monday to Friday (excluding public holidays).

How can DBDRV help?

DBDRV can help with a range of domestic building disputes including, but not limited to:

- defective or incomplete building work
- delays to building work
- issues with payment
- other matters arising from a domestic building contract or carrying out domestic building work.

Who is eligible for the DBDRV service?

You may be eligible to use the dispute resolution service if you are in dispute over domestic building work and you are a:

- builder
- building owner
- architect
- sub-contractor
- engineer engaged in the building industry
- other building practitioner, for example a surveyor or draftsperson.

Does DBDRV charge fees for its service?

DBDRV does not charge for its dispute resolution service.

DBDRV aims to resolve domestic building disputes impartially, effectively and without expense to the parties in dispute.

Generally, there will be no charge for a technical building assessment. However, in very limited circumstances, a fee may be charged for a technical report, and this will be communicated to the relevant party on a case-by-case basis.

What criteria do you have to meet to access DBDRV services?

In broad terms, to be eligible for DBDRV services, your dispute must:

- relate to residential (domestic) building work
- be between a building owner and a builder, architect, sub-contractor, engineer or building practitioner
- not be between a building owner and single tradesperson engaged directly by the owner to carry out only one of the following types of work: plumbing, painting, plastering, tiling, insulating, glazing, installing floor coverings or electrical work
- not have been, or currently be subject to proceedings in the Victorian Civil and Administrative Tribunal (VCAT)
- not relate to building work that is more than 10 years old.

You need to take reasonable steps to try to resolve the dispute directly with the other party before you apply for the services offered. The DBDRV may refuse your application as not suitable for conciliation if you have not done so.

'Reasonable steps' depends on the circumstances, but generally you should:

- try to contact the other party to raise your concerns, repeatedly if they do not respond
- clearly inform the other party of the issues you are disputing, preferably in writing
- give the other party an opportunity to respond to you and carry out any agreed actions
- preferably advise them that you intend to lodge an application with DBDRV if the issues cannot be resolved.

How can you make an application to DBDRV?

If you have a domestic building dispute, visit the DBDRV website (dbdrv.vic.gov.au) and apply using the online application form.

There is no fee to lodge an application.

Applications can also be submitted by post. Call the Building Information Line on 1300 55 75 59 to request an application form.

What happens after you lodge an application?

After you lodge your application, you will be provided with a dispute reference number which will be assigned to your application and sent to you via email.

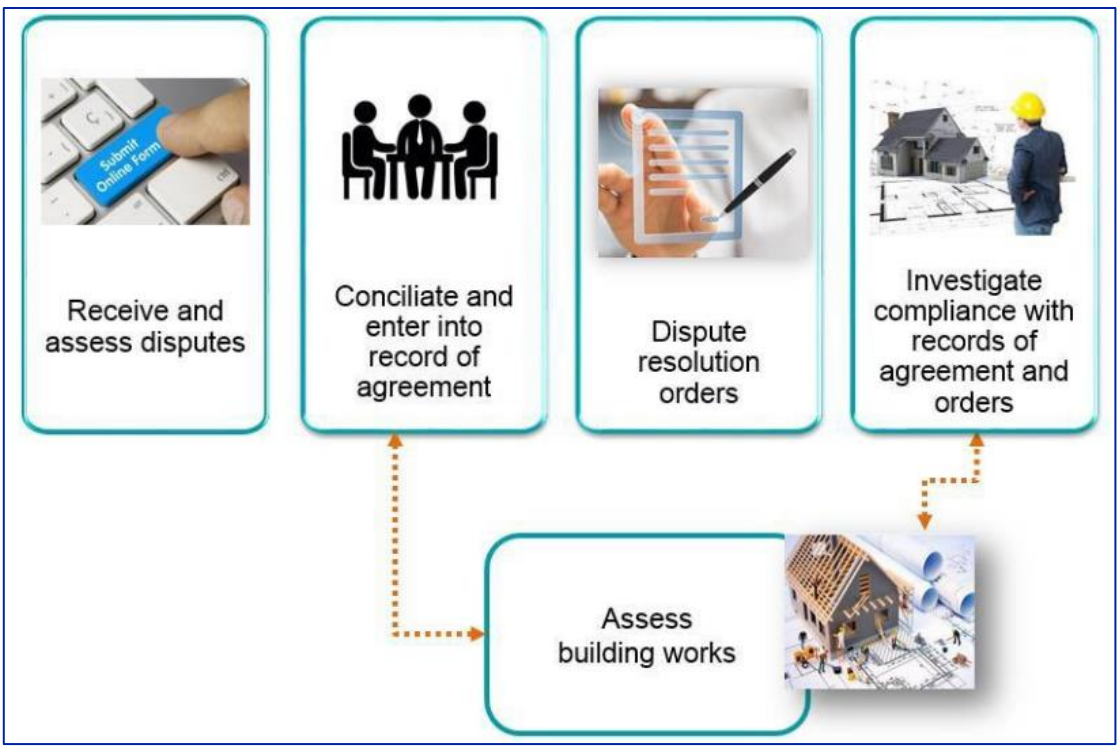
Once your application is received, a Dispute Resolution Officer will talk to each party and assess whether the dispute is suitable for conciliation. They will also provide you with information on how to prepare for conciliation.

Can you go straight to VCAT?

No, you cannot go directly to VCAT. All eligible domestic building disputes must first be lodged with DBDRV before an application may be made to VCAT.

VCAT will not accept your application unless it includes a DBDRV certificate of conciliation, confirming that the dispute was not suitable for our service or could not be resolved by conciliation.

The Dispute resolution process:



Step 1: Apply

Check the eligibility criteria on the website (dbdrv.vic.gov.au). If you are eligible, complete and submit the application form. At this stage, the DBDRV need basic information including:

- Your contact details — They may need to call, email or send you documents.

- The other party's details — They will contact both parties after you have lodged your application.
- Dispute details — They need basic facts about the dispute, including the building address and type of dispute.

After you submit your application, you will receive a dispute reference number and confirmation email attaching your completed application form along with information about next steps.

Step 2: Jurisdiction check:

Once your application is received, a Dispute Resolution Officer will evaluate whether your dispute is within the service's jurisdiction.

If your dispute is not within the DBDRV's jurisdiction, they will advise you and refer you to the most appropriate agency.

If your dispute is within their jurisdiction, your application will progress to the initial assessment phase of the dispute resolution process.

Step 3: Initial assessment:

A Dispute Resolution Officer will assess whether your dispute is suitable for conciliation. The complete list of suitability criteria against which your dispute will be assessed can be found in section 45C(3) of the Domestic Building Contracts Act 1995. The criteria include the steps that have already been taken to resolve the dispute and the likelihood that conciliation will help resolve the dispute.

During this step, the Dispute Resolution Officer will contact you and the other party to obtain further information.

If your application is not accepted as suitable for conciliation

A Dispute Resolution Officer will:

- notify both parties and explain your options
- provide both parties with a certificate of conciliation (dispute not suitable). This certificate is necessary if a party wishes to apply to VCAT.

If your application is accepted as suitable for conciliation

A Dispute Resolution Officer will:

- notify both parties and discuss next steps
- provide both parties with a notice of decision which outlines the applicant's stated reasons for the dispute.

Step 4: Prepare for conciliation:

The DBDRV conduct conciliations to suit the nature of the dispute and the circumstances of the parties. Your Dispute Resolution Officer will work with both parties to assess and understand the dispute and determine the best way forward.

All parties to the dispute must attend conciliation, which will be facilitated by an experienced conciliator.

You may be asked to provide documents before the conciliation, including:

- your domestic building contract or agreement, and associated plans and specifications
- architectural and/or engineering drawings
- your building permit and plans
- records of any inspections undertaken by a building surveyor
- variation requests
- extension of time requests
- correspondence with the other party relevant to your dispute
- your occupancy permit (for newly built homes) or your certificate of final inspection (for renovations).

Step 5: Building assessment:

As part of the dispute resolution process, the DBDRV may organise a DBDRV assessor to examine the disputed building work. Assessors determine whether domestic building work is defective or incomplete. They may also specify the cause of a defect and a timeframe for any work required to rectify or complete the building work.

When examining building work, the DBDRV building assessors must also consider whether there have been any contraventions of building legislation. If the assessor identifies any contraventions, these must be reported to the Victorian Building Authority.

The issues that will be assessed are determined by the Dispute Resolution Officer based on information provided by the parties. Not all issues raised may be assessed. Prior to the assessment, both parties will be notified about the full list of issues that will be assessed. Additional items will not be considered on the day.

Assessments are carried out in the presence of all relevant parties. Ahead of the scheduled assessment date, the Dispute Resolution Officer will confirm who will be attending the assessment. Only the people confirmed by the Dispute Resolution Officer should be present and it is important that all parties act respectfully throughout this process. Recordings of the assessment are not permitted.

Building assessments may take place in person or via video link. The method of assessment will be confirmed before the assessment takes place.

During the assessment, the assessor will not advise whether they believe the disputed building work is defective or incomplete. The parties will receive an assessment report after the assessment is complete.

The parties have five business days to make submissions in relation to the report, if they wish.

There is no fee for an assessment unless the party requests an assessment when the dispute has not been accepted or the dispute was not resolved by conciliation.

Step 6: Conciliation:

The conciliation conference is facilitated by the conciliator and brings the parties together to discuss the issues in dispute, in a safe and confidential environment.

The conciliator will:

- facilitate the conciliation conference
- encourage understanding and communication between the parties, and
- listen to the parties and help them come up with ways to resolve the dispute.

Conciliation conferences will either be held at the DBDRV offices or may be conducted by teleconference or video link and, on some occasions, with an assessor present. The DBDRV officer will liaise with the parties before determining the most suitable option.

All parties with authority to resolve the dispute should attend conciliation. Other attendees may include the building assessor or an interpreter. The parties may request to bring a support person or legal representative to the conciliation conference. They will consider these requests on a case-by-case basis.

If a party does not participate in conciliation

They expect the parties to participate in conciliation in good faith – that is, with an open mind and willingness to explore options to resolve the dispute. If you choose not to participate, they may do any of the following in your absence:

- appoint an assessor to conduct a building assessment of the domestic building work in dispute
- issue a dispute resolution order, or
- issue a certificate stating that you failed to participate in conciliation.

Step 7: Possible outcomes of conciliation:

At the conciliation conference, one of the following outcomes may be achieved.

Agreement

If the parties resolve their dispute, this will be documented in a formal record of agreement. The record of agreement will contain the actions agreed to by the parties, together with the dates by which those actions must be performed. Each of the parties will be provided with a copy at the conclusion of the conciliation conference.

It is the responsibility of the parties to honour the terms of the record of agreement.

Dispute resolution order

If the parties either partially resolve their dispute or are unable to resolve their dispute, the Chief Dispute Resolution Officer may issue a binding dispute resolution order against one or both parties.

There are significant consequences and costs for a party who does not comply with an order. View the DBDRV website (dbdrv.vic.gov.au) for more information.

Certificate of conciliation

If the parties are unable to resolve their dispute at the conciliation conference, the Chief Dispute Resolution Officer may issue the parties with a certificate of conciliation (dispute not resolved). The parties will then be entitled to make an application to VCAT, if they wish.

What happens if I don't participate in conciliation?

If you do not participate in conciliation, or do not participate in good faith, this will be formally noted in a certificate of conciliation issued to the parties.

If you fail to participate in the dispute resolution process the DBDRV may still, in your absence:

- appoint an assessor to conduct a building assessment of the defective or incomplete work
- issue a dispute resolution order, or
- issue a certificate stating that you failed to participate in conciliation.

In some cases, failure to participate by a builder will mean that the builder may have to pay the DBDRV's costs of obtaining an expert report.

If there are later proceedings in VCAT relating to the dispute, VCAT may make a costs order against the unsuccessful party if they did not participate in good faith in a conciliation conference, or if they refused to participate at all.

Confidentiality

The conciliation process is confidential, with some limited exceptions. Your Dispute Resolution Officer will explain this to all parties. In deciding whether to issue a dispute resolution order, the Chief Dispute Resolution Officer can consider the conduct of the parties during the conciliation.

Dispute resolution orders

If your dispute is not resolved by conciliation, or a record of agreement is not honoured, the Chief Dispute Resolution Officer may issue a dispute resolution order.

Before deciding whether to issue a dispute resolution order, the Chief Dispute Resolution Officer will consider:

- any building assessment conducted by DBDRV
- whether there has been any change in the nature of the dispute or the circumstances of the parties since the assessor's report (if any) was delivered to the parties
- the conduct of the parties during conciliation (if applicable)
- any direction to fix building work given under the Building Act 1993; and
- whether issuing a Dispute resolution order would be unfair or unreasonable.

Orders the DBDRV can make:

A dispute resolution order issued against a building owner can direct the owner to:

- pay money to the builder for the completion of building work
- pay money into the Domestic Building Dispute Resolution Victoria Trust Fund, to be held until the defective or incomplete building work is fixed or completed
- comply with specified conditions if the builder is required to comply with a dispute resolution order
- refrain from doing anything that would stop the builder from complying with the contract or their warranty obligations.

A Dispute resolution order issued against a builder can direct the builder to:

- rectify defective building work
- complete the building work in accordance with the contract
- rectify any damage caused as a result of carrying out the building work
- pay money to the owner for completion or rectification of the building work under the building contract
- pay money to the owner for a claim or entitlement under the building contract (such as delay damages)
- pay for the reasonable cost of another builder to rectify or complete the building work (if the building work is so defective that it would not be appropriate to allow the builder back on site)

- arrange for the building work to be carried out by a registered builder (if the building work in dispute should have been carried out by a registered builder).

Note: An order can include a finding that the building work in dispute is not defective or incomplete.

Challenging a dispute resolution order

Parties who have had a dispute resolution order issued against them may seek to have it reviewed by VCAT on the basis that:

- the description of the defective or incomplete building work is not accurate
- the due date for carrying out the specified building work is not reasonable
- any requirement in the order to take or refrain from taking specific action is unreasonable.

If a review application is lodged with VCAT, the order is suspended and the parties must wait until VCAT makes its decision.

If a building owner fails to comply with a dispute resolution order

The builder can notify the DBDRV officer if a building owner fails to comply with a dispute resolution order.

This might be verified independently, or the owner might tell the DBDRV that they have not complied with the order. If confirmed, the DBDRV will notify both parties that the order has not been complied with by issuing a notice of breach of dispute resolution order.

If the builder has complied with any actions required of them in the dispute resolution order, the builder is then entitled to end the contract and apply to VCAT for:

- payment for work already carried out under the contract
- an order for damages as a result of the loss of work caused by the early end to the contract
- any other appropriate orders

If a builder fails to comply with a dispute resolution order

The building owner can notify the DBDRV officer if a builder fails to comply with a dispute resolution order.

When the notification is received, the DBDRV officer will seek to verify the information received. In some cases, this will involve directing a DBDRV assessor to check the status of the building work and report on whether the order has been complied with.

If the order has been breached, the DBDRV officer will notify both parties by issuing a breach of dispute resolution order notice (breach notice).

The building owner is then entitled to end the contract and if they wish, apply to VCAT for appropriate orders.

Builder challenging a breach notice

A builder who has been issued with a 'breach of dispute resolution order notice' can seek a review in VCAT by:

• challenging the accuracy of the DBDRV building assessment report on which the dispute resolution order is based, or

• proving that the dispute resolution order has since been complied with.

If a builder challenges the notice, the owner must wait for the outcome of the review in VCAT before exercising their right to end the contract.

Owner challenging a breach notice

A building owner who has been issued with a breach of dispute resolution order notice may also ask VCAT to review the order.

Review by VCAT

Parties involved in the DBDRV dispute resolution process have the right to apply to VCAT for review of certain actions or decisions made by DBDRV.

More information can be found on the Building and Construction section of the VCAT website (vcat.vic.gov.au/case-types/building-and-construction).

9. Home Warranty & Building Insurance

Home Warranty

The phrase 'Home Warranty' gets thrown around a lot in the residential construction industry. Some builders use this as a marketing ploy and some as a mark of stature. Either way, what many of them don't realise is they are all governed by the same legislation as detailed in the Building Contracts Act 1995. With so much talk about who gives what warranty, it is a wonder why there is so much confusion on the topic. However, in the following paragraphs we'll deep dive into what actually matters to you, including Implied warranties, structural and non-structural warranties and the 10 year statutory warranty as detailed in the Building Act 1993.

Implied Warranties

The law requires builders meet certain obligations when they carry out building work in Victoria.

These obligations are called 'implied warranties' in the Domestic Building Contracts Act 1995, Part 2 clause 8: Division 1 – General warranties; and 'consumer guarantees' in the Australian Consumer Law. Homeowners have similar rights under both of these laws.

The following list of implied warranties regarding the work to be carried out under a domestic building contract are part of every domestic building contract:

a) the builder warrants that the work will be carried out in a proper and workmanlike manner and in accordance with the plans and specifications set out in the contract
b) the builder warrants that all materials to be supplied by the builder for use in the work will be good and suitable for the purpose for which they are used and that, unless otherwise stated in the contract, those materials will be new
c) the builder warrants that the work will be carried out in accordance with, and will comply with, all laws and legal requirements including, without limiting the generality of this warranty, the Building Act 1993 and the regulations made under that Act
d) the builder warrants that the work will be carried out with reasonable care and skill and will be completed by the date (or within the period) specified by the contract
e) the builder warrants that if the work consists of the erection or construction of a home, or is work intended to renovate, alter, extend, improve or repair a home to a stage suitable for occupation, the home will be suitable for occupation at the time the work is completed
f) if the contract states the particular purpose for which the work is required, or the result which the building owner wishes the work to achieve, so as to show that the building owner relies on the builder's skill and judgement, the builder warrants that the work and any material used in carrying out the work will be reasonably fit for that purpose or will be of such a nature and quality that they might reasonably be expected to achieve that result.

Implied warranties apply to all building work. These warranties apply when a builder has a contract with a homeowner, regardless of:

- the cost of construction
- whether there is a written contract.

Neither the builder or the homeowner can sign away their rights to the implied warranties and their protection under a domestic building contract. The Building Act 1993 allows action to be brought against a builder for up to **10 years** from the date the work was completed. This right transfers to a new owner if the property is sold within this time. For more information, seek legal advice – including if the building work is older than 10 years.

Structural and Non-Structural Warranty

There was a time when builders could be held responsible for their work for an extended period. Under the common law, homeowners could file legal claims many years after the work was finished, even decades later. This was called a 'perpetuity' risk for builders.

Under the former legislation, the Limitation of Actions Act 1958 in Victoria allowed homeowners 6 years from when the damage happened or was noticeable to file a claim. The issue for builders was that some defects took more than 6 years to become obvious. In some cases, defects were discovered more than 10 years after the construction was finished. Then, the homeowner had another 6 years from when the defect became noticeable to file a claim.

However, when the Building Act 1993 came into effect in Victoria, it introduced a new law to limit the time for filing a building claim against a builder, Part 9, Section 134 of the Building Act 1993.

The 10-year limit was considered a fair compromise because most defects become apparent around 6-7 years after the work is finished.

In this context, a "building action" (as mentioned in Part 9, Section 134 of the Building Act 1993) refers to a legal claim for damages related to defective building work. Building work includes the design, inspection, and permit issuance for the construction.

To summarise, a builder is held accountable for all building related works whether structural or non-structural under the Building Contracts Act 1993 Part 9, Section 134 for a period of no longer than 10 years.

10-year Statutory Warranty

Part 9, Section 134 of the Building Act 1993 states the following:

Despite anything to the contrary in the Limitation of Actions Act 1958 or in any other Act or law, a building action cannot be brought more than 10 years after the date of issue of the Occupancy Permit in respect of the building work (whether or not the Occupancy Permit is subsequently cancelled or varied) or, if an Occupancy Permit is not issued, the date of issue under Part 4 of the Certificate of Final Inspection for the building work.

Building Insurance (aka Domestic Builders Warranty Insurance (DBWI))

In Victoria, a builder must take out domestic builders warranty insurance (previously known as 'builders warranty insurance') for a homeowner if the building works cost is over $16,000. The builder must provide the homeowner with a copy of the insurance policy and a certificate of currency covering the contracted works before a contract deposit is paid.

Domestic building insurance protects consumers if the builder dies, becomes insolvent or disappears, and cannot finish the contracted building work or fix building related defects. The DBWI covers costs up to $300,000 to fix structural defects for six years, and non-structural defects for two years.

Where an insurance policy is required under Division 3, Part 9, Section 135 of the Building Act 1993 in relation to a contract and it is not issued before a contract is entered into then until such an insurance policy is issued:

- the builder is not able to enforce any provision of a contract;
- the building works must not commence
- no money (including the deposit) is payable under a contract. The builder is to ensure that a copy of that insurance policy is given to the owner within 7 days after it is issued.

Pro Tip:

💡 It's important to note that domestic builders warranty insurance covers structural defects for 6 years (or 2 years for non-structural defects) after completion or contract termination.

Note: Homeowners can only claim this insurance if the builder has died, disappeared, or becomes insolvent. In other words, the insurance is meant to protect homeowners, not the builders.

Don't be fooled into believing your builder can provide anything less than a 10 year warranty on all building work. All homeowners are covered by a 10 year implied warranty under statutory law!

10. Private Building Surveyor

Building surveyors are registered professionals that are required for any project that requires a building permit. Building surveyors are responsible for ensuring buildings are safe, accessible and energy efficient.

There are two types of building surveyor:

- private building surveyor
- municipal (local council) building surveyor

You can choose whether to use a municipal or private building surveyor. However, only one building surveyor can be appointed to a building project resulting in a building permit. This person is then known as the Relevant Building Surveyor (RBS).

If you decide to engage a municipal building surveyor, you do not need to formally appoint them. By simply applying for a building permit at your local council, a municipal building surveyor will automatically become your RBS.

A builder who enters into a major domestic building contract must not appoint a private building surveyor on your behalf. Similarly, a private building surveyor cannot accept an appointment from a builder on your behalf.

A builder may recommend a private building surveyor, but you are free to appoint a private building surveyor of your choice. You can search for a private building surveyor on the VBA - Appointing a building surveyor.

Pro Tip:

❗ Only a homeowner or agent of the owner can appoint a private building surveyor. By law, the builder can't appoint the building surveyor if the work is domestic building work under a domestic building contract.

💡 The RBS is supposed to act on your behalf. If they were appointed by the builder, there's a good chance they will work with the builder and may turn-a-blind eye on defects or major issues that should have been addressed.

Don’t let your builder appoint a relevant building surveyor for your home build!

What a building surveyor does:

A building surveyor is involved for the duration of the building work. They ensure the building work complies with legal requirements and they issue the building permits that allow work to commence. Building surveyors carry out inspections to ensure building work is being undertaken correctly. They also issue an occupancy permit when the work is completed.

A registered building surveyor is authorised to:

- assess building permit applications for compliance with the Building Act 1993, Building Regulations 2017 and National Construction Code
- issue building and occupancy permits, and certificates of final inspection
- conduct building inspections at the mandatory notification stages
- give directions to fix for non-compliant building work
- serve building notices and orders.

By understanding your rights as outlined in Part 6, Section 78 (1A) of the Building Act 1993, and correctly appointing your own private building surveyor, you can ensure that the mandatory notification stages of your build have been completed.

P.S: *Download the document below.*

The mandatory inspection stages are as follows:

1. Prior to placing a footing (Piers or screw pile inspection *if applicable*)
2. Prior to placing a footing (Pre-slab Inspection)
3. Prior to pouring in situ concrete (Slab Steel Reinforcement Inspection)
4. Completion of framework (Timber Frame Inspection)
5. Completion of all building work (Final Inspection)



New Home Inspector

LETTER OF APPOINTMENT OF BUILDING SURVEYOR

1). A builder engaged in carrying out domestic building work cannot complete this form on behalf of an owner. Only the owner or agent (other than the builder) can complete this form.
#). By signing this form the owner and/or agent confirms that:
a. They are aware of their obligations under the Building Act 1993 Part 3 Division 2 Section 17 and Building Regulations 2006; and
b. They have not appointed any other private building surveyor or a municipal building surveyor to complete any functions set out in section 76 of the Building Act 1993 in respect of a building or proposed building work mentioned below.

TO:
Building Surveyor Name:

FROM:
Owner/Owner's Agent Name:

Postal Address:

Contact Telephone:

Email Address:

I/we the applicant nominated above, confirm that I am not a builder engaged in carrying out building works for the project listed below and hereby request to formally appoint the building surveyor nominated above to administer the Building Permit approval process and issue the Building Permit for;

DESCRIPTION OF WORKS AND USE:

LOCATION:

Signature:
Date:____/ ____/____

RELEVANT BUILDING SURVEYORS RESPONSE:

I hereby respond to the above request served on me by the owner or owner's agent and
☐ I have determined that to the best of my knowledge this letter has been submitted in good faith by the owner and/or owner's agent and agree to the above request.

☐ Disagree with the above request for the following reasons;
☐ The Builder is acting as agent of owner/s; and/or
☐ The applicant is affiliated and/or has a conflict of interest with RBS; and/or
☐ I have determined that the request does not permit me to act under Section 79; and/or
☐ I have determined that the above request does not warrant my services.

Signature:
Date:____/ ____/____

11. Unfair Contract Clauses

Building your new home is a significant milestone, but it's essential to approach it with caution. One of the critical steps in this process is reviewing and understanding your building contract. In Victoria, there are specific laws under the Building Contracts Act 1995 aimed at preventing unfair contract terms. It's crucial for homeowners to ensure that their domestic building contract does not contain any illegal clauses. This report delves into the potential unfair contract terms that homeowners should watch out for and why reviewing your contract is a vital step in a stress-free building process.

Unlawful Clauses in Domestic Building Contracts:

When reviewing your building contract, be on the lookout for the following illegal terms:

1. Compulsory Arbitration Clause: A clause that mandates any dispute to go to arbitration is considered unfair and unlawful.
2. Caveats on Land Titles: Any statement that includes a caveat on the building site's land title is prohibited.
3. Restrictions on Implied Warranties: Any provision that restricts or denies your rights to implied warranties is not permitted.
4. Cost Escalation Clause: A cost escalation or 'rise and fall' clause is only permissible if the contract price exceeds $500,000. The responsibility lies with the builder to factor in likely cost increases due to inflation, wage hikes, and similar factors. If a builder wishes to include such a clause, it must be approved by the Director of Consumer Affairs Victoria. **Important Note: The director has not yet approved any cost escalation clauses.**
5. An agreement to pay the builder by a cost-plus method, if your contract is less than:
    a. $500,000 for contracts entered into before 1 August 2017, and
    b. $1 million for contracts entered into on or after 1 August 2017.

Note: An example of a cost-plus method is when a builder charges by the hour and you do not have a fixed price for your contract. You can use a cost-plus contract if you are renovating an existing house, but only in very limited circumstances. Get legal advice before you sign any cost-plus contract.

6. The expression ‘practical completion’. If you find it in your contract, delete it and insert ‘complete in accordance with the plans and specifications’.

Why Reviewing Your Contract Matters:

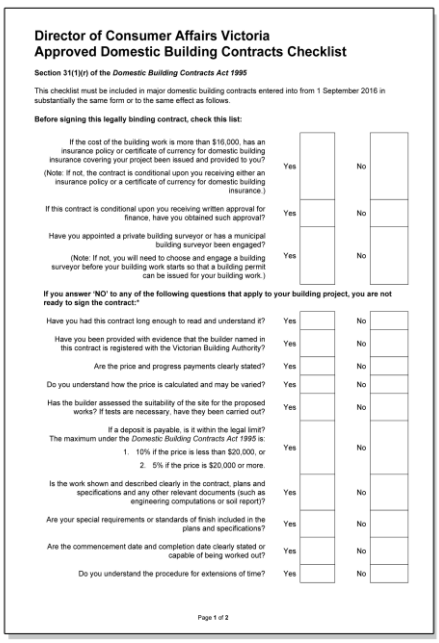
Reviewing your contract and ensuring it complies with the law is crucial for several reasons:

1. Legal Protection: Adhering to the law ensures you are legally protected and that your rights are not unfairly restricted.
2. Financial Security: Unlawful contract terms can lead to unexpected expenses or disputes, impacting your financial security.
3. Contract Clarity: Understanding your contract terms is vital for a transparent and smooth building process.

4. Peace of Mind: Knowing that your contract is fair and legal provides peace of mind throughout the construction of your new home.

Before signing a domestic building contract in Victoria, it's imperative to review the terms thoroughly. Having a legal representative examine the contract can provide an added layer of protection. Understanding the laws related to unfair contract terms is essential to ensure that your rights are not compromised. By adhering to these guidelines, homeowners can embark on their home-building journey with confidence, knowing that their contract is both lawful and fair. To assist with reviewing your building contract, below is a checklist you can follow along with the Domestic Building Consumer Guide which is the contract information statement required by section 29A of the Domestic Building Contracts Act 1995.

P.S: *Download the documents below.*



Director of Consumer Affairs Victoria
Approved Domestic Building Contracts Checklist

Section 31(1)(r) of the *Domestic Building Contracts Act 1995*

This checklist must be included in major domestic building contracts entered into from 1 September 2016 in substantially the same form or to the same effect as follows.

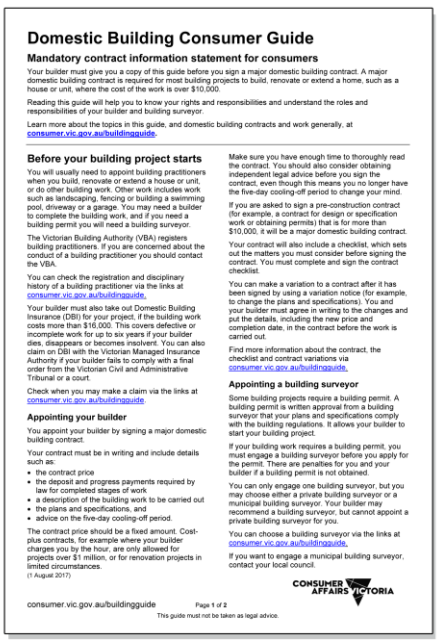
Before signing this legally binding contract, check this list:

If the cost of the building work is more than $16,000, has an insurance policy or certificate of currency for domestic building insurance covering your project been issued and provided to you? (Note: If not, the contract is conditional upon you receiving either an insurance policy or a certificate of currency for domestic building insurance.)	Yes	No
If this contract is conditional upon you receiving written approval for finance, have you obtained such approval?	Yes	No
Have you appointed a private building surveyor or has a municipal building surveyor been engaged? (Note: If not, you will need to choose and engage a building surveyor before your building work starts so that a building permit can be issued for your building work.)	Yes	No

If you answer 'NO' to any of the following questions that apply to your building project, you are not ready to sign the contract:

Have you had this contract long enough to read and understand it?	Yes	No
Have you been provided with evidence that the builder named in this contract is registered with the Victorian Building Authority?	Yes	No
Are the price and progress payments clearly stated?	Yes	No
Do you understand how the price is calculated and may be varied?	Yes	No
Has the builder assessed the suitability of the site for the proposed works? If tests are necessary, have they been carried out?	Yes	No
If a deposit is payable, is it within the legal limit? The maximum under the *Domestic Building Contracts Act 1995* is: 1. 10% if the price is less than $20,000, or 2. 5% if the price is $20,000 or more.	Yes	No
Is the work shown and described clearly in the contract, plans and specifications and any other relevant documents (such as engineering computations or soil report)?	Yes	No
Are your special requirements or standards of finish included in the plans and specifications?	Yes	No
Are the commencement date and completion date clearly stated or capable of being worked out?	Yes	No
Do you understand the procedure for extensions of time?	Yes	No

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Domestic Building Consumer Guide

Mandatory contract information statement for consumers

Your builder must give you a copy of this guide before you sign a major domestic building contract. A major domestic building contract is required for most building projects to build, renovate or extend a home, such as a house or unit, where the cost of the work is over $10,000.

Reading this guide will help you to know your rights and responsibilities and understand the roles and responsibilities of your builder and building surveyor.

Learn more about the topics in this guide, and domestic building contracts and work generally, at consumer.vic.gov.au/buildingguide.

Before your building project starts

You will usually need to appoint building practitioners when you build, renovate or extend a house or unit, or do other building work. Other work includes work such as landscaping, fencing or building a swimming pool, driveway or a garage. You may need a builder to complete the building work, and if you need a building permit you will need a building surveyor.

The Victorian Building Authority (VBA) registers building practitioners. If you are concerned about the conduct of a building practitioner you should contact the VBA.

You can check the registration and disciplinary history of a building practitioner via the links at consumer.vic.gov.au/buildingguide.

Your builder must also take out Domestic Building Insurance (DBI) for your project, if the building work costs more than $16,000. This covers defective or incomplete work for up to six years if your builder dies, disappears or becomes insolvent. You can also claim on DBI with the Victorian Managed Insurance Authority if your builder fails to comply with a final order from the Victorian Civil and Administrative Tribunal or a court.

Check when you may make a claim via the links at consumer.vic.gov.au/buildingguide.

Appointing your builder

You appoint your builder by signing a major domestic building contract.

Your contract must be in writing and include details such as:

- the contract price
- the deposit and progress payments required by law for completed stages of work
- a description of the building work to be carried out
- the plans and specifications, and
- advice on the five-day cooling-off period.

The contract price should be a fixed amount. Cost-plus contracts, for example where your builder charges you by the hour, are only allowed for projects over $1 million, or for renovation projects in limited circumstances.

(1 August 2017)

Make sure you have enough time to thoroughly read the contract. You should also consider obtaining independent legal advice before you sign the contract, even though this means you no longer have the five-day cooling-off period to change your mind.

If you are asked to sign a pre-construction contract (for example, a contract for design or specification work or obtaining permits) that is for more than $10,000, it will be a major domestic building contract.

Your contract will also include a checklist, which sets out the matters you must consider before signing the contract. You must complete and sign the contract checklist.

You can make a variation to a contract after it has been signed by using a variation notice (for example, to change the plans and specifications). You and your builder must agree in writing to the changes and put the details, including the new price and completion date, in the contract before the work is carried out.

Find more information about the contract, the checklist and contract variations via consumer.vic.gov.au/buildingguide.

Appointing a building surveyor

Some building projects require a building permit. A building permit is written approval from a building surveyor that your plans and specifications comply with the building regulations. It allows your builder to start your building project.

If your building work requires a building permit, you must engage a building surveyor before you apply for the permit. There are penalties for you and your builder if a building permit is not obtained.

You can only engage one building surveyor, but you may choose either a private building surveyor or a municipal building surveyor. Your builder may recommend a building surveyor, but cannot appoint a private building surveyor for you.

You can choose a building surveyor via the links at consumer.vic.gov.au/buildingguide.

If you want to engage a municipal building surveyor, contact your local council.

CONSUMER AFFAIRS VICTORIA

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This guide must not be taken as legal advice.

Pro Tips:

❌ Did you know the only qualified person who inspects your home is the relevant building surveyor...BUT they only visit 4 times over the entire build and 3 of those are at the BEGINNING! Leaving a huge gap in the middle of the construction process where anything can go wrong...and often does!

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Glossary

AS1684: Australian Standard 1684, which provides guidelines for the design and construction of timber framing in buildings.

AS2870: Australian Standard 2870, which outlines requirements for site classification for residential land.

AS3740: Australian Standard 3740, which pertains to waterproofing of domestic wet areas.

Australian Standards: A set of technical standards and guidelines used in the Australian construction industry to ensure quality and safety in building practices. Australian standards set out specifications and design procedures. These ensure products and services perform safely, reliably, and the way they're intended to.

Bored Concrete Piers: Structural supports used in building foundations, typically made of concrete, and created by drilling holes into the ground and filling them with concrete.

Building Act 1993: Legislation in Victoria, Australia, that governs the construction and safety of buildings.

Building Contracts Act 1995: Legislation in Victoria, Australia, that regulates domestic building contracts.

Building Contracts Regulations 2017: Regulations that complement the Building Act 1993 and detail specific rules and requirements related to building contracts.

Cashflow: The movement of money in and out of a construction project, which is crucial for funding and managing expenses.

Community Infrastructure Levy: A fee charged by local councils to contribute to local infrastructure and services.

Conventional Raft Slab: A type of concrete foundation used in building construction.

Council Asset Protection Permit: A permit required to protect council assets during construction, such as roads and footpaths.

Domestic Builders Warranty Insurance (DBWI): Insurance that provides coverage for homeowners in the event of a builder's insolvency, death, or disappearance.

Domestic Building Dispute Resolution Victoria (DBDRV): Are an independent government agency designed to help resolve domestic building disputes between homeowners and builders in Victoria.

F5 Structural Timber: F5 is a common-grade lumber used in structural timber. F-graded material is generally used for applications where the appearance of the timber is important, such as flooring and decking. MGP timber is typically used for structural applications like framing and load-bearing walls. F-grade system is visually graded and can have a wider range of appearances.

Fittings and Fixtures: Items and components installed in a building, such as plumbing fixtures and light fittings.

Implied warranties: Unwritten, automatic guarantees that certain standards of quality and fitness for purpose are met in a building contract.

Initial Quotation: The initial estimate provided by a builder outlining the costs of a construction project.

Land Fall: The change in ground level or topography of a site, which can affect construction and drainage.

Land Filling: The process of adding soil or material to a site to raise its level.

Level 1 Compaction Report: A report that assesses the compaction of soil to determine its suitability for construction.

Load-up Progress Payment: A payment schedule in a building contract where larger payments are required early in the project.

Manufacturers Specification and Installation Guide: Detailed instructions from product manufacturers for installing their products in construction projects.

MGP10 Structural Timber: A specific classification of structural timber used in construction.

National Construction Code (NCC): A set of technical codes and standards for building and construction in Australia.

Practical Completion Inspection (PCI): An inspection to determine if construction work is complete and meets the required standards.

Private Building Surveyor: A professional responsible for ensuring that building work complies with relevant regulations and standards.



Professional New Home Inspector: An expert who assesses and inspects newly constructed homes to ensure they meet the minimum standards set out in the NCC and Australian standards.

Reactive Clays: Soils that expand and contract with changes in moisture content, potentially affecting building foundations.

Reduced Levels (RL's): Measurements used in surveying to determine the difference in height between various points on a site.

Relevant Building Surveyor (RBS): The building surveyor appointed for a construction project who ensures compliance with building regulations.

Sediment Control: Measures and practices used to prevent soil erosion and the transport of sediment during construction.

Site Cost: The expenses associated with preparing a construction site, including excavation and foundation work.

Site Fencing: Temporary fencing installed on a construction site for safety and security.

Site Leveling: The process of preparing a construction site by adjusting the ground level.

Site Waste Bins: Containers or cages for collecting and isolation of construction waste on a building site.

Site Signage: Signs displayed on a construction site to convey information and warnings.

Soil Bearing Capacity: The ability of the soil to support the weight of a building's foundation.

Soil Compaction: The process of compressing soil to improve its density and load-bearing capacity.

Soil Moisture Content: The amount of water present in the soil, which can impact its properties and suitability for construction.

Steel Reinforcement: The use of steel bars or mesh in concrete to enhance its strength and durability.

Structural Engineering Plans: Detailed drawings and calculations outlining the structural elements of a building.



Suspended Slab Design: A structural design where the concrete base is supported by bored concrete piers or screw piles rather than resting directly on the ground.

Topography: The physical features and layout of the land's surface, including its elevation and natural contours.

VBA Guide to Standards and Tolerances: Guidelines provided by the Victorian Building Authority to ensure quality and compliance in construction.

New Home Inspector

Book Your Start-to-Finish Home Build Program

Finally...A Safe & Easy Way For You To Safeguard Your Most Valuable Asset...Your New Home!

✔ **The 8 Stages of Our Highly Valuable Start-to-Finish Home Build Program:**

- 💰 BONUS: In-depth Analysis of Contract, Plans & Engineering
- 🔍 Site Start/Pre-Base Compliance Inspection
- 🔍 Base Steel Reinforcement Compliance Inspection
- 🔍 Structural Frame/Completed Base Compliance Inspection
- 🔍 Home Lockup Stage Compliance Inspection
- 💰 BONUS: Pre-Plaster Install Compliance Inspection
- 🔍 Waterproofing System Compliance Inspection
- 💰 BONUS: Practical Completion Inspection

✔ **Members Only - BuildRight Portal:**

👍 Exclusive access to a collection of must have tools for any Victorian home buyer

✔ **Exclusive Access - BuildRight Elite:**

💸 Exclusive access to huge savings and discounts from our preferred partner list. Save $1000's with access to discounts at some of Victoria's largest retailers and service providers

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