



Building Act:
**Keys to quick
approvals**



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The information is provided on the basis that readers will be responsible for making their own assessments and are advised to verify all relevant representations, statements and information.

This publication aims to provide information relating to the *Building Act 2011* which was passed in the Western Australian Parliament in October 2012. Please be aware that any previous documentation issued may not reflect these current laws.

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Moving our industry forward



Under the new building laws the process of issuing permits and approval certificates is easier, more efficient and consistent across Western Australia.

This is largely due to the introduction of a certified application process.

Builders, designers and owners can use their chosen registered building surveyor for certified applications to save time, expense and importantly to give certainty on approvals.

Having a registered building surveyor on board early in the design process has a number of benefits. It can reduce the number of drafts a designer has to produce to get a building permit, and minimises the risk of cash flow problems from approval delays. It also ensures the client's design requirements are understood, leading to a better result, not just a faster one.

It's now easier to design and build innovative and exciting buildings because a registered building surveyor can work with the design team to confirm the design meets the rules – a process that was not available under the previous legislation.

Arriving at this point has only been possible through the collaboration of designers, builders, building surveyors and permit authorities. We hope this publication will help you to get the most out of these important changes to the legislation.

Should you require any clarification, the Building Commission has a dedicated hotline to help you on 1300 489 099.

Peter Gow
Building Commissioner

Process overview

This guide outlines the types of permits that can be obtained and the roles and responsibilities of those involved. It highlights opportunities to ensure a smooth and efficient approval process through simple and practical advice.

If you are submitting, assessing or approving an application for a permit, there are several things you can do to get the most out of the new system – we call these the keys to quick approvals. The advice in keys to quick approvals is based on the Building Act 2011 (the Building Act), which is part of a suite of building laws introduced in Western Australia.

The Building Act's key objectives are to:

- provide a comprehensive system of building control in Western Australia;
- set standards for buildings and demolition work in Western Australia; and
- deal with building or demolition work that affects other land.

Key 1 Certified applications

The Building Act introduces certified applications for all permits. This is a process where a registered building surveyor checks the plans and specifications of a proposed or an existing building. The building surveyor will complete and sign a certificate of compliance confirming the proposed or existing building complies with the applicable building standards. An application can then be made to the relevant permit authority. In most cases, the permit authority is the relevant local government.

The permit authority then assesses the application to ensure it complies with all other legislative requirements such as town planning. When these requirements have been met, the permit is issued.

The process will be much quicker and more effective if a complete application is submitted to the permit authority. However if information is missing, the permit authority can request the applicant to provide it. After the missing information is received, the permit authority can issue the permit provided all other legislative requirements are met.



Key 2 Find the forms

The introduction of both standardised permit application forms and strict processing timeframes has brought consistency across all permit authorities. The following application forms, and where appropriate supporting guides, are available on the Building Commission's website www.buildingcommission.wa.gov.au.

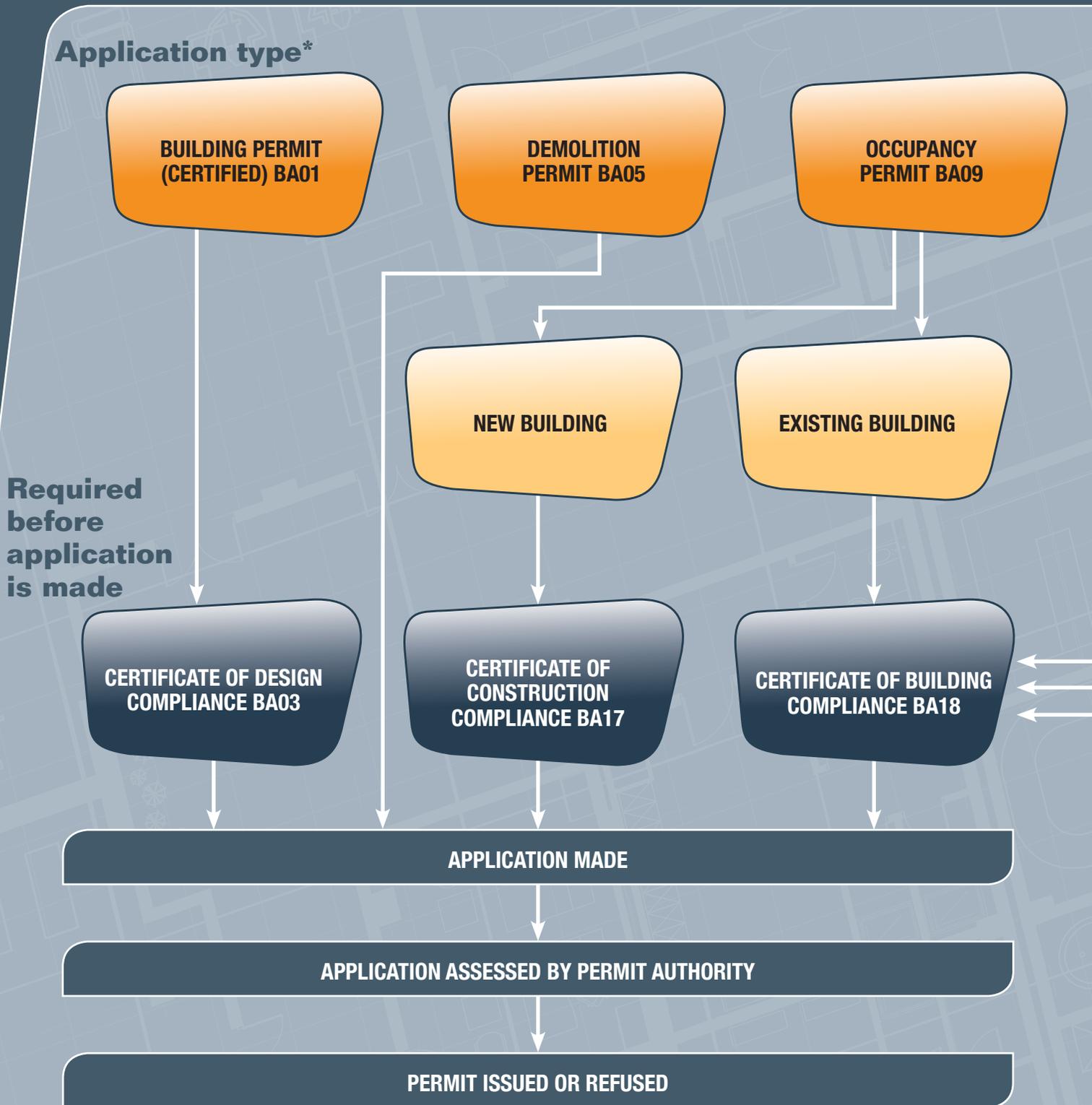
BA01	Application for building permit (certified)
BA02	Application for building permit (uncertified)
BA05	Application for demolition permit
BA09	Application for occupancy permit
BA11	Application for occupancy permit strata
BA13	Application for building approval certificate
BA15	Application for building approval certificate strata
BA22	Application to extend a building or demolition permit
BA20	Work affecting other land – encroachment or adversely affecting
BA20A	Work affecting other land – other notifiable events



It is the applicant's responsibility to ensure all relevant documentation is provided and is correct. If information in the application is not complete it will cause delays and may result in the permit being refused.

Overview of the permit application process

The following chart outlines the application process that must be followed to ensure you receive your building permit or certificate as quickly as possible.



*Please note that one or more of these application types may apply

**OCCUPANCY PERMIT –
STRATA BA11**

**BUILDING APPROVAL
CERTIFICATE BA13**

**BUILDING APPROVAL
CERTIFICATE
STRATA BA15**

Note: Uncertified applications should be submitted through a completed BA02 form. It then becomes the role of the permit authority to sign the certificate of design compliance after the application has been made.

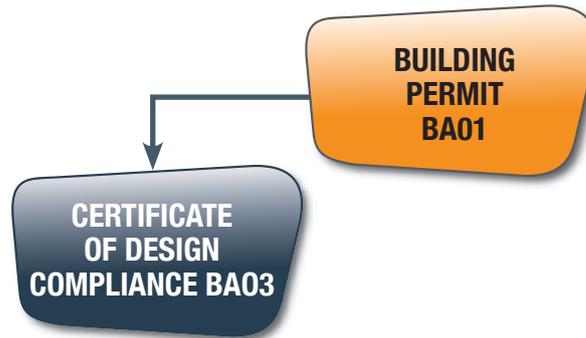
The legislation is available from www.buildingcommission.wa.gov.au or from the State Law Publisher, located at 10 William Street, Perth (telephone 6552 6000 or download copies at www.slp.wa.gov.au).

Key 3 Choose the right permit

1. Building permit

When is it required?

Generally, a building permit is required before any building work can be carried out. A registered building surveyor is engaged by the applicant to certify compliance to the building standards by issuing a certificate of design compliance (CDC).



Are there exemptions?

Yes. Schedule 4 of the *Building Regulations 2012* sets out work for which a building permit is not required.

Application must be accompanied by:

- a CDC signed by an independent building surveyor;
- copies of all plans and specifications specified in the CDC;
- a copy of each technical certificate relied on by the building surveyor;
- copies of any necessary approval from other statutory bodies (eg planning approvals) and/or notifications to the Heritage Council;
- appropriate consent forms or court orders where work encroaches onto or adversely affects other land;
- evidence that the required insurance provisions under the *Home Building Contracts Act 1991* have been met, if applicable; and
- payment of the prescribed fee.

Uncertified applications for single residential buildings (class 1a and 10) applications

A building permit application may be made to the permit authority without engaging a registered building surveyor to certify compliance with the relevant building standards. This is referred to as an uncertified application. A CDC is not submitted with an uncertified application and the permit authority must appoint an independent building surveyor to check the proposal and provide the CDC. For this reason the uncertified process may take up to 25 days as opposed to 10 days for a certified application. Minimum requirements for completing an uncertified application are outlined in the 'Checklist for Uncertified BA2 Applications for Class 1a Housing', available on the Building Commission's website www.buildingcommission.wa.gov.au.



2. Demolition permit

When is it required?

A demolition permit is required for the demolition, dismantling or removal of a building or incidental structure.

**DEMOLITION
PERMIT
BA05**

Are there exemptions?

Yes. Under regulation 42 of the *Building Regulations 2012*, any Class 10 building that does not exceed 40m² may be exempt.

Application must be accompanied by:

- copies of all plans and specifications;
- copy of any planning approvals and/or notifications to the Heritage Council that are required;
- appropriate consent forms or court orders where work encroaches onto or adversely affects other land;
- details of the contractor where asbestos is present; and
- payment of the prescribed fee.

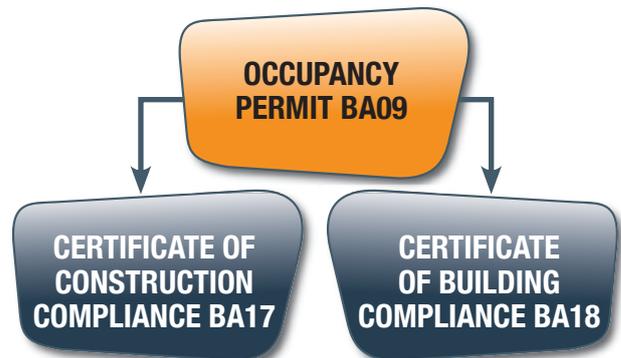
3. Occupancy permit

When is it required?

An occupancy permit must be obtained before a building can be occupied.

Occupancy permits cover a number of different scenarios, including:

- occupying a completed new building;
- changing an existing building's use or classification;
- retrospectively authorising an unauthorised building; or
- temporarily occupying an incomplete building.



Are there exemptions?

Yes. Occupancy permits are not needed for existing buildings, unless the use or classification is to be changed. The permit authority can determine that an occupancy permit is not required for minor alterations or where a building permit is not required. Class 1a and 10 (single residential) buildings do not require an occupancy permit.

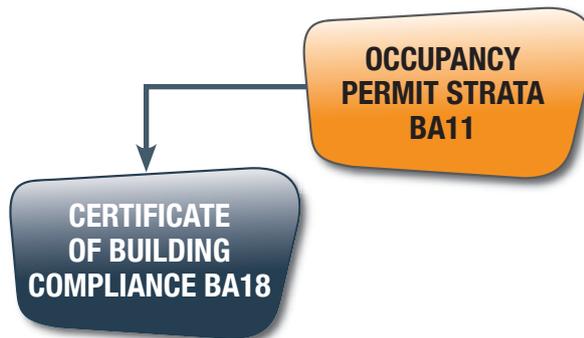
Application must be accompanied by:

- a certificate of construction compliance for new buildings or certificate of building Compliance for existing buildings;
- evidence of any prescribed authorities' approval;
- evidence of any prescribed notifications given; and
- payment of the prescribed fee.

4. Occupancy permit strata

When is it required?

An occupancy permit strata is used to obtain strata titles from Landgate. It cannot be used to occupy a building.



Are there exemptions?

No.

Application must be accompanied by:

- a certificate of building compliance;
- evidence of any prescribed authorities' approvals;
- evidence of any prescribed notifications given;
- appropriate survey diagram identifying proposed lots; and
- payment of the prescribed fee.



5. Building approval certificate

When is it required?

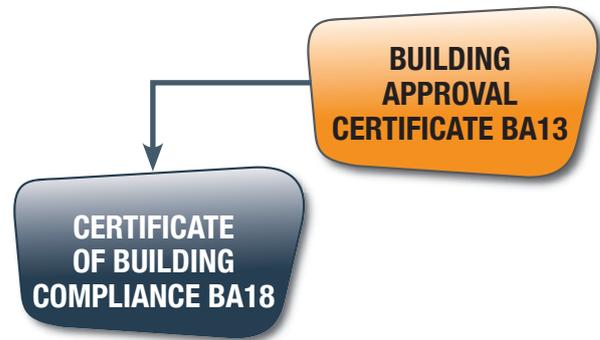
A building approval certificate is used to retrospectively approve any building work completed without a building permit being issued, or certifies an existing building's compliance with the relevant standards.

Are there exemptions?

Building approval certificates are voluntary, however if you have unauthorised building work you may be required to demolish it if you do not have one.

Application must be accompanied by:

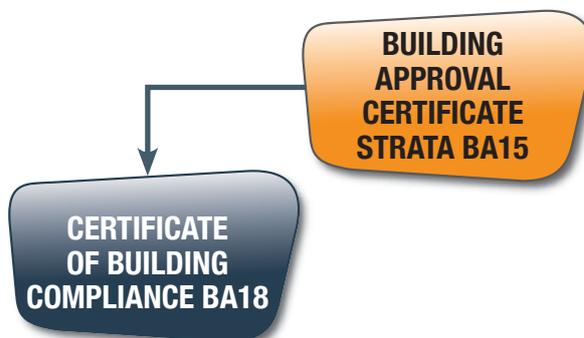
- a certificate of building compliance;
- copies of all plans and specifications specified on the CBC;
- a copy of each technical certificate;
- evidence of any prescribed authorities' approval;
- evidence of any prescribed notifications given;
- appropriate consent forms or court orders where work encroaches onto or adversely affects other land; and
- payment of the prescribed fee.



6. Building approval certificate strata

When is it required?

A building approval certificate strata can be used to obtain strata titles from landgate. It cannot be used to certify compliance for works carried out without a building permit.



Are there exemptions?

It is not compulsory to strata title a building, however if someone wants to they may need to obtain a building approval certificate strata.

Application must be accompanied by:

- a certificate of building compliance signed by an independent building surveyor;
- evidence of any prescribed authorities' approval;
- evidence of any prescribed notifications given;
- appropriate consent forms or court orders where work encroaches onto or adversely affects other land;
- appropriate survey diagram identifying proposed lots; and
- payment of the prescribed fee.



Key 4 Get consent if required

Work affecting other land

There are two instances where work affecting other land requires consent or a court order to be provided as part of a permit application.

1. Encroachment – This is where a part of a proposed building is over a boundary or using the land on another property for support.
2. Work adversely affecting an adjoining property – This is where the building work being undertaken will adversely affect the stability, bearing capacity or natural site drainage of the adjoining land or structure.

Where work is affecting other land by either encroachment or adverse effect, the adjoining landowner's consent is required prior to making a permit application. This consent forms part of the permit application. In the event consent cannot be gained, a court order must be obtained and submitted with the permit application.

In some instances, building or demolition work that does not encroach or adversely affect adjoining land may still require the adjoining owner's consent. In this instance you may use either a BA20A form, email or any other correspondence confirming you have the adjoining owner's consent. Consent is not required prior to making a permit application.

For more information on work affecting other land, see the fact sheet on the Building Commission's website www.buildingcommission.wa.gov.au.

The *Building Act 2011* does not require you to get approval from adjoining owners to remove a fence to build an approved zero lot wall, but you must get neighbour consent if you want to access the adjoining land to build it. If the adjoining land is vacant or unoccupied, you do not need to get neighbour consent for access.

Notification to Department of Fire and Emergency Services

Details of proposed commercial buildings as prescribed in the *Building Regulations 2012* are required to be submitted to the Department of Fire and Emergency Services (DFES) for comment on operational requirements.

Key 5 Pay the relevant fees and charges

The *Building Regulations 2012* prescribe set fees for all applications to permit authorities. Certification fees for obtaining a certificate of design compliance or other certificates are not regulated and are set by the registered building surveyor engaged.

Key 6 Know the players in the process

The legislation requires all parties associated with building or demolition to be involved in the process, including the following:

Owner

A person whose name is registered as a proprietor of the land; the State if registered as a proprietor of the land; or a person who holds a prescribed interest in the land, as stated in the *Building Regulations 2012*.

Builder

The person responsible for the work being carried out under the building permit. Where works are required to be undertaken by a registered builder this is a person registered as a building contractor under the *Building Services (Registration) Act 2011*.

Building surveyor

A person who is a registered building surveyor, as defined in section 3 of the *Building Services (Registration) Act 2011*.

Permit authority

Usually a local government in whose district the building or incidental structure is, or is proposed to be, located; a special permit authority; or the State Government.

Applicant

The person making the application. This can be the owner, the designer, the builder or anyone else engaged to get the permits for a project.



Key 7 Be aware of the timeframes

Submission

APPLICATION MADE

Applications for building, demolition, or occupancy permits, or building approval certificates, can be submitted in a variety of ways – in person, by post or electronic lodgement – depending on the systems the relevant permit authority has in place.

When does the clock start?

Permit authorities have a fixed amount of time to issue or refuse a permit application. The point at which the permit authority's timeframe for assessing an application starts is referred to as 'starting the clock'. The point at which the clock starts depends on the method of application.

Method of application	When the clock starts	Example
Post	At 12am the day after the application is received at the permit authority's office. The timing of this will depend on the delivery service paid for by the applicant.	The applicant posts the application at 3pm on Tuesday. The post box is located in the same city as the permit authority. As the application should be received by the permit authority on the Wednesday, the clock will start at 12am on Thursday.
In person	At 12am the day after the application has been accepted by the permit authority's front counter staff.	The applicant enters a local government authority office on a Thursday to hand over their application. The counter staff may discuss the application with the applicant to ensure it is complete, but are obliged to accept the application if it is the wish of the applicant. The clock starts ticking at 12am on the Friday.
Electronically (online)	At 12am the day after the application has been received by the permit authority's information technology system.	The applicant lodges the application to the local government authority online. The application is automatically recorded and enters the local government authority's online system at 3:46pm on a Monday. The clock starts at 12am on the Tuesday.

Assessment

APPLICATION ASSESSED BY PERMIT AUTHORITY

The length of time the permit authority has to consider the application from when the clock starts is listed in the table below.

Type of application	Number of days permit authority has to decide	If missing information is requested by the permit authority
Building permit (certified) Demolition permit Occupancy permit Occupancy permit strata Building approval certificate Building approval certificate strata	10 business days	Informal requests Through an informal request, the permit authority can ask for missing information, for example via phone or email, without stopping the clock. Formal requests When the permit authority wishes to stop the clock a formal request must be given in writing to the applicant. When this is sent, the clock is stopped. Once the information is received, the clock restarts and the permit authority has what was left of the 10 business days (or 25 for an uncertified application) to decide on the application. The permit authority will prescribe the time by when the missing information is to be provided. This time cannot exceed 21 days. The application assessment time may be extended through an agreement between the applicant and permit authority.
Building permit (uncertified) (class 1a and 10 only)	25 business days	

Determination

PERMIT ISSUED OR REFUSED

The permit authority has the prescribed timeframes set out in the table above to determine an application. If the application is not determined within the specified timeframe and an extension has not been agreed to by the applicant and permit authority, the permit authority must refund the application fee. If the application is refused, or 'deemed refused' because the application was not determined on time, the applicant may appeal against the decision of the permit authority with the State Administrative Tribunal in accordance with the *Building Act 2011*.

If approved, the permit is issued to the applicant, builder and owner. If a building permit is granted on an uncertified application, a copy of the certificate of design compliance must also be given to the applicant.

Key 8 Know your responsibilities

The roles and responsibilities of the four key players during the building process are outlined in the table below.

Applicant	Builder
At the time of permit application	
1. Ensuring that all the relevant documentation is provided and is correct	
2. Obtaining the necessary statutory approvals	
3. Determining whether the work will affect other land, and getting consent if required	
When work is being carried out	
	1. Ensuring the building work complies with the appropriate standards
	2. Notifying the permit authority of any changes
	3. Ensuring the relevant inspections are carried out
	4. Obtaining an approval certificate for inspections
At completion of work	
	5. Submitting notification of completion to the permit authority (BA07)

Building surveyor	Permit authority
At the time of permit application	
1. Ensuring the plans comply with the Building Code of Australia	1. Checking applications are complete and in order
2. Liaising with DFES if required (commercial developments)	2. Issuing permits
3. Ensuring the plans comply with the relevant regulations	
4. Issuing certificates CDC (Building permits) CBC (Occupancy permits – existing buildings and building approval Certificates) CCC (Occupancy permits – new buildings)	
When work is being carried out	
5. Conducting inspections when engaged to do so*	3. Checking the building complies with the appropriate standards
6. Issuing certificates of inspection*	
At completion of work	
7. Carrying out inspections and issuing certificates as required*	4. Checking the building complies with the appropriate standards
	5. Enforcement
	6. Record keeping

**A builder may also perform these functions.*

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Regular industry bulletins and newsletters are our way of keeping you informed of matters such as:

- general industry trends;
- the *Building Act 2011*;
- licensing; and
- notices of successful prosecutions.

Each newsletter will be available on our website and emailed to those registered to receive updates.

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