

Building Regulation News Updates are issued as and when necessary, to keep the Tasmanian Building Industry informed of developments occurring in the industry, Building Code of Australia (BCA) and its referenced documents and legislation.

## ***Building Act 2000 - Questions and Answers***

### **Purpose**

The purpose of this News Update is to provide advice to building practitioners and others on questions frequently asked about the [Building Act 2000](#).

### ***Owner-Builders***

#### **How are Owner-Builder Projects counted?**

Owner-Builders are limited to constructing two (2) buildings in 10 years. That is two buildings of any classification, (including in the case of a Class 1 building more than two groups of buildings which in association constitute a Class 1 building), other than Class 10 buildings. This does not include any years prior to the commencement of the *Building Act 2000*.

It has been reported that some Permit Authorities have interpreted this to mean two projects (including two projects on the same building). This is not the intention of Parliament as indicated in the reference to Class 1 buildings. Since the implementation of the Act, Building Standards and Regulation has consistently provided the following advice: *alterations and additions, to a building, which is already counted as one of the buildings, do not count as the second building. An alteration or addition commenced after 1 July 2004 on a building that existed prior to 1 July 2004 will activate that building as the first of two buildings allowed in the ten years.*

#### **How are Owner-Builder Projects recorded? (s. 87(3) BA) r. 29 BR)**

Owner-Builders are to notify the Building Surveyor before starting work. The Building Surveyor is to notify the Director of Building control in accordance with the Building Regulations 2004 on receipt of the Owner-Builder Start Work Notice. The Director of Building Control then adds the information to a register to keep record of owner builder activities.

Notification of Owner Builder work a is to be faxed to or posted to the Director of Building Control (see contact details below).

#### **Can an Accredited Builder also be an owner-builder under the Building Act? (s. 3 BA)**

No. There are two “classes” of builder, either an Accredited Builder or an Owner-Builder. The *Building Act 2000* defines owner-builder as a person who –

- (a) carries out building work on a building on land owned by the person; and
- (b) is not carrying on the business of building; and
- (c) has not constructed more than 2 buildings of any classification (including in the case of a Class 1 building more than two groups of buildings which in association constitute a Class 1 building), other than Class 10 building, in the last 10 years not including any years prior to the commencement of this Act; and
- (d) has made a statement referred to in section 24 of the Building Act.

## **Does a builder building on his own land for sale or letting, have to obtain Housing Indemnity Insurance?**

The Director of Consumer Affairs and Fair Trading has advised Building Standards and Regulation that any questions or issues relating to the Housing Indemnity Act should be referred to his office for an opinion (see below for Director's contact details).

### ***Name of Builder on Building Applications***

#### **Can a Permit Authority refuse to accept a building application if the builder has not been nominated? (s. 70(2) BA)**

No. There is no ability for a Permit Authority to refuse an application. They are able to ask for more information if the required documentation is not provided. If the builder is not known at the time, the application form should state "not known". The permit can be issued with a condition that the applicant must advise the Permit Authority of the builder when one is appointed. The Building Surveyor will get a start work notice, and work cannot start until there is a nominated builder.

### ***Change of use***

#### **If there is no change of use of premises, does the building work require compliance with the Building Code of Australia as required by Section 55 of the *Building Act 2000*?**

All building work is required to comply with the BCA - ([Building Act 2000](#) s.55). A change of use is a trigger for BCA compliance, which may require building work. No change of use is not an excuse for non-compliance.

### ***Function Control Authorities***

#### **What is a Function Control Authority? (S. 3 BA)**

A function control authority is an authority that is required under an Act to issue a certificate, licence, registration or permit for a function or operation within a building; or inspect or control a function or operation within a building; and that the Director specifies is a function control authority for the purpose of the [Building Act 2000](#).

#### **Who are the Function Control Authorities specified by the Director of Building Control?**

SCHEDULE 1 of the [Director's Specified List](#) provides a list of the Functional Control Authorities for types of special-use building, in accordance with the requirements of Sections 3 and 64 of the *Building Act 2000*.

Contact details for those listed are provided below:

<b>Functional Control Authority</b>	<b>Contact details</b>
Chief Inspector of Meat Hygiene	Meat Hygiene Standards Section (DPIWE) Clerk - Meat Hygiene PO Box 46, KINGS MEADOWS, TAS, 7249 Phone: (03) 6336 5280 Fax: (03) 634 32833 Email: <a href="mailto:Sheree.Stonjek@dpiwe.tas.gov.au">Sheree.Stonjek@dpiwe.tas.gov.au</a>
Child Care Unit of Department of Education	Child Care Unit, Department of Education GPO Box 169, HOBART, TAS, 7001 Telephone: (03) 6233 8812 or (03) 6233 5676: or 1300 135 513 Facsimile: (03) 6233 6042 Email: <a href="mailto:childcare.comment@education.tas.gov.au">childcare.comment@education.tas.gov.au</a>

<b>Functional Control Authority</b>	<b>Contact details</b>
Commissioner for Licensing	PO Box 972, LAUNCESTON, TAS, 7250 Phone: (03) 6336 2261 Facsimile:(03) 6336 2799 E-Mail: <a href="mailto:licensing@treasury.tas.gov.au">licensing@treasury.tas.gov.au</a>
Local Council	Details of your local council can be found on the Local Government Association of Tasmania website, under “contacts” <a href="http://www.lgat.tas.gov.au/councils/contactsshort/index.asp">http://www.lgat.tas.gov.au/councils/contactsshort/index.asp</a>
<b>Functional Control Authority</b>	<b>Contact details</b>
Minister for Health	The Manager Intergovernmental Relations Divisional Support Unit HAS Hospitals & Ambulance Service Division Department of Health and Human Services Level 2, 10 Murray Street, Hobart, TAS, 7000 Phone: (03) 6233 6698 Fax: (03) 6233 8909
Tasmanian Dairy Industry Authority	PO Box 303, Devonport, TAS, 7310 Ph: (03) 6421 7689 Fax: 6421 7667 Email: <a href="mailto:food.fibre@dpiwe.tas.gov.au">food.fibre@dpiwe.tas.gov.au</a>
Workplace Standards Tasmania	PO Box 56, ROSNY PARK, TAS, 7018 30 Gordons Hill Rd, Rosny Park, TAS, 7018 Phone: 03 6233 7657 or 1300 366 322 Email: <a href="mailto:wstinfo@dier.tas.gov.au">wstinfo@dier.tas.gov.au</a> Fax: 03 6233 8338  Workplace Standards Tasmania also has offices at: <ul style="list-style-type: none"> <li>• Reece House, 46 Mount Street, Burnie, TAS 7320</li> <li>• Henty House, 1 Civic Square, Launceston, TAS 7250</li> </ul>

### *Contact details*

Director of Consumer Affairs and Fair Trading	Address GPO Box 1244, Hobart 7001 Phone 1300 65 44 99 Fax (03) 6233 4882 E-Mail <a href="mailto:consumer.affairs@justice.tas.gov.au">consumer.affairs@justice.tas.gov.au</a> Web Address <a href="http://www.justice.tas.gov.au/newca/index.htm">www.justice.tas.gov.au/newca/index.htm</a>
Director of Building Control	The Director of Building Control: PO Box 56, ROSNY PARK, TAS, 7018 Fax: 03 6233 8338
<b>Updated!</b> Tasmania Fire Service in Northern Tasmania	Tasmania Fire Service has relocated its Northern offices from 91 Paterson Street to: 339 Hobart Road Youngtown. The fax number has also changed to: 6344 6801 All mail for Chief Officer Reports and Chief Officer Occupancy Reports are to go to the new address

Graeme Hunt

*Manager of Building Standards and Regulation*

This document has been produced and published by Building Standards and Regulation of the Department of Infrastructure, Energy and Resources. Although every care has been taken in the production of the work, neither the Crown in the right of the State of Tasmania nor any servant or agent of the Crown accepts responsibility for any loss or damage suffered at any time by any person as a result of any error or inaccuracy in the publication whether or not the error or inaccuracy has resulted from negligence or any other cause.