

Unapproved Building Works

Building Act 2016 (TAS)



Building work that has been carried out without the required relevant approvals and certificates is considered **not to have been** completed in accordance with the *Building Act 2016* (the Act).

What is deemed Building Work:

'Building Work' is defined in the Act as constituting of, or relating to:

- a) erecting, re-erecting, constructing, altering, repairing, underpinning, demolishing or removing a building; or
- b) adding to a building; or
- c) excavating, or filling, which is incidental to an activity referred to in paragraph (a) or (b); or
- d) any other prescribed work.

Enforcement

Council's Permit Authority may issue a Building Notice to owners of land and/or persons who undertook the work, that through an investigation, have been identified as having carried out building work without the relevant building approval.

The Building Notice will often provide owners with the ability to show cause why they should not carry out either of the following within a specified timeframe:

- complete the work in accordance with the requirements of the Act;
or
- remove the unapproved works from the land.

After reviewing the show cause (written representation to the building notice) and if unable to demonstrate why a Building Order should not be issued then Council's Permit Authority may proceed with the issuing of a Building Order. The Building Order may require the following within a specified timeframe:

- complete the work in accordance with the requirements of the Act;
or
- remove the unapproved works from the land

Option 1

Complete the Building Work in accordance with the Building Act 2016

To secure approval for the structure so it can be retained on the site, the landowner will need to complete the building work in accordance with the requirements of the Act. This will include seeking a building approval and completion certificate for the work.

An applicant is not considered to have complied with the requirements of a Building Order until a Certificate of Completion has been issued for the building work that has been carried out. An owner will need to secure a Permit of Substantial Compliance for building work that has been carried out without the relevant approval. It should be noted that one of the considerations prior to issue of a Permit of Substantial Compliance is whether other permits and consents required under any other relevant Act have been issued ie planning approval under the *Land Use Planning and Approvals Act 1993* may be required. **Steps Outlined Below.**

1. Engage Building Surveyor

The Building Surveyor will need to inspect the building to determine the likeliness of the building being able to achieve compliance with National Construction Code requirements. Your Building Surveyor will require plans of the structure as well as confirmation of Planning Compliance.

2. Have Plans Prepared

In order to secure the relevant approvals for the building you will require scaled plans including the following:

- Site Plan showing the location of the building on the land in relation to the property boundaries and other buildings on the land.
- Elevation Plans of the building.
- Drainage plans

3. Plumbing Compliance

Once your plans have been prepared you can liaise with Council's Permit Authority to see if the building work carried out requires Plumbing Approval. The Permit Authority will categorise the plumbing work and advise you if plumbing approval is required.

6. Complete Building, Plumbing and Planning Work in Accordance with the relevant Approvals

When Council's Permit Authority has issued a Permit of Substantial Compliance for the building you can proceed with finalisation of the building work in accordance with the requirements of the:

- Permit of Substantial Compliance,
- Certificate of Substantial Compliance,
- Plumbing Approval, and
- Planning Approval.

5. Permit of Substantial Compliance

When the Building Surveyor has issued a Certificate of Substantial Compliance for the building you need to submit an Application for a Permit of Substantial Compliance with Council's Permit Authority.

4. Certificate of Substantial Compliance

In this step you need to lodge an Application for a Certificate of Compliance with your Building Surveyor. To do this you will need a full set of plans of the structure as well as any other documentation as required by your Building Surveyor.

7. Secure Final Certificates

When the building work is complete and all building and plumbing inspections have been carried out and final certificates issued. The Applicant for the Permit of Substantial Compliance will need to submit these to the Council's Permit Authority to enable the issue of a Certificate of Completion for the work.

8. Revoke Building Order

Council's Permit Authority will revoke the Building Order if a Certificate of Completion has been issued for the building work.

Option 2

Removal of the Building Work

To remove the unapproved building/structure, then the work associated with its removal is to be carried out safely and in a manner that will not cause a nuisance to the public or adjoining landowners. In some cases, the work associated with the removal of an illegally erected building/ structure may trigger the need for building approval. Council's Permit Authority will advise you accordingly if this is the case.

Upon completion of the work, the owner is to notify Council's Permit Authority in writing that the work is complete. The Permit Authority may require a compliance inspection of the site. Once satisfied that the owner has complied with the requirements of the Building Order the Permit Authority will revoke the Order in writing.