

## Conditions of Engagement with Protek Building Surveying Services Pty Ltd

### 1 NATURE OF ENGAGEMENT

- 1.1 Protek Building Surveying Services Pty Ltd will carry out, upon request by the owner or agent and in accordance with the Building Act 2016 (the Act) and Building Regulations 2016 (the Regulations), the prescribed building services in accordance with this Engagement.
- 1.2 The owner or agent shall pay Protek Building Surveying Services Pty Ltd the applicable fees in accordance with this Engagement.
- 1.3 This Engagement between Protek Building Surveying Services Pty Ltd and the owner is for a period of 24 months from the issue of Certificate of Likely/Substantial Compliance or signing of this Engagement (if Certificate of Likely/Substantial Compliance not applicable).
- 1.4 After 24 months as per 1.3, a new Engagement and terms can be negotiated and may be signed if both the owner and Protek Building Surveying Services Pty Ltd agree to the terms and conditions.
- 1.5 Protek Building Surveying Services Pty Ltd may resign from this engagement, without the consent of the Director of Building Control by way of a notice in writing to the owner after 3 years of engagement as the engaged Building Surveyor.

### 2 OWNERS WARRANTIES AND INDEMNITIES

- 2.1 The owner warrants:
  - a) the accuracy and completeness of all documentation and information given to Protek Building Surveying Services Pty Ltd as part of this engagement;
  - b) that Protek Building Surveying Services Pty Ltd when carrying out the prescribed building services acts with the owner's authority;
  - c) that no other person or company has been appointed as the engaged Building Surveyor for the prescribed building services on the subject property.
- 2.2 The owner shall indemnify Protek Building Surveying Services Pty Ltd against any claims in respect of Protek Building Surveying Services Pty Ltd acting within authority from the owner.

### 3 INFORMATION

- 3.1 The owner shall:
  - a) promptly answer any reasonable enquiries and provide all relevant documentation requested by Protek Building Surveying Services Pty Ltd in relation to the prescribed Building Surveying services.
  - b) direct others to liaise, cooperate and confer with Protek Building Surveying Services Pty Ltd when necessary; and
  - c) provide Protek Building Surveying Services Pty Ltd with all relevant information. It is understood by the owner that issue of building approval may be delayed if all relevant documentation and information is not supplied to Protek Building Surveying Services Pty Ltd as soon as practical following the request for additional information.

## 4 LEGISLATIVE REQUIREMENTS — COMPLIANCE

- 4.1 If a legislative requirement necessitates a change to:
- a) the owner's project requirements;
  - b) the building work;
  - c) the services; or
  - d) a fee, charge or payment of a new fee or charge
- there shall be a fee adjustment

## 5 REPRESENTATIVES AND KEY PERSONNEL

- 5.1 Protek Building Surveying Services Pty Ltd shall provide the prescribed building services personally or nominate an authorised representative to provide the prescribed building services.

## 6 BUILDING SURVEYING FEES

- 6.1 In appointing Protek Building Surveying Services Pty Ltd as the engaged Building Surveyor for the project, the owner agrees to pay the Building Surveying fee in full prior to the issue of Certificate of Likely/Substantial Compliance.
- 6.2 The owner/agent shall pay Protek Building Surveying Services Pty Ltd the Building Surveying fee as per the quoted fee proposal.
- 6.3 Services that have not been allowed for within the scope of works of the quoted fee proposal shall incur additional costs as outlined in the schedule of fees.

## 7 PAYMENT

- 7.1 Protek Building Surveying Services Pty Ltd shall claim payment in accordance with the Schedule of Fees (Section 20) included in this Engagement;
- 7.2 Each claim shall be in writing, include details for the value of services provided together with any disbursements incurred by Protek Building Surveying Services Pty Ltd and may include details of other monies then due to Protek to Building Surveying Services Pty Ltd pursuant to the provisions of this Engagement.
- 7.3 The owner shall pay any claim made by Protek Building Surveying Services Pty Ltd within the payment terms as noted on the invoice.
- 7.4 Protek Building Surveying Services Pty Ltd may, at any stage; be entitled to withhold supply of goods or services until any outstanding invoices have been paid to the satisfaction of Protek Building Surveying Services Pty Ltd.
- 7.5 Further fees and charges will apply if action to recover an outstanding balance is undertaken - this may include charges from debt recovery firms/agencies and/or legal firms.
- 7.6 In the event of default by the owner, she/he further consents and authorises Protek Building Surveying Services Pty Ltd to forward all relevant confidential information pertaining to her/him to a third party including but not limited to solicitors and debt collectors.
- 7.7 All payment claims are made under the Building and Construction Industry Security of Payment Act 2009.

## 8 INTEREST

- 8.1 Interest at a rate of 5% shall be due and payable by the recipient of invoice as from the 30th day after the due date on the claim.

## 9 TERMINATION

- 9.1 The engagement of Protek Building Surveying Services Pty Ltd under this Engagement may only be terminated:
- with the owner first obtaining written consent to terminate from the Director of Building Control pursuant to Section 37 of the Building Act 2016.
  - if the owner and Protek Building Surveying Services Pty Ltd agree to a change to a new engaged Building Surveyor pursuant to Section 37 of the Building Act 2016.
  - if Protek Building Surveying Services Pty Ltd resigns as the engaged Building Surveyor after 3 years of engagement in accordance with Section 37 of the Building Act 2016
- 9.2 If this Engagement is terminated in accordance with the Building Act 2016, the owner shall pay to Protek Building Surveying Services Pty Ltd all outstanding payments owing to Protek Building Surveying Services Pty Ltd at the time of termination.
- 9.3 Protek Building Surveying Services Pty Ltd shall be entitled to charge additional fees for costs and disbursements arising as a consequence of the termination.

## 10 Amendment to a Certificate of Likely Compliance, Building Permit or Permit of Substantial Compliance.

- 10.1 The owner/agent may lodge with Protek Building Surveying Services Pty Ltd an application requesting a Certificate of Likely Compliance (Notifiable Works), Building Permit or Permit of Substantial Compliance be amended.

The application must:

- be in writing;
- include all documents required under the Building Act 2016 and the Regulations or as requested by the Protek Building Surveying Services Pty Ltd;
- be accompanied by the required fee as per the schedule of fees.

## 11 Extension of time of Certificate of Likely Compliance Building Permit or Permit of Substantial Compliance.

- 11.1 The owner/agent may lodge with Protek Building Surveying Services Pty Ltd an application requesting an extension of time prior to the expiry date of the Certificate of Likely Compliance (Notifiable Works), Building Permit or Permit of Substantial Compliance.

The application must:

- be in writing;
- include all documents required under the Building Act 2016 and the Regulations or as requested by Protek Building Surveying Services Pty Ltd;
- be accompanied by the required fee as per the schedule of fees.

## 12 NON-COMPLIANCE

- 12.1 If the owner/agent fails to comply with:
- the Certificate of Likely Compliance or Certificate of Substantial Compliance and/or its conditions;
  - any directions issued by Protek Building Surveying Services Pty Ltd;
  - a section of the Building Act 2016 and the Regulations;

Protek Building Surveying Services Pty Ltd may issue Orders and Notices which will attract further fees and charges.

## 13 INSPECTIONS

- 13.1 Building work MUST commence within a period of 12 months from the date of either
  - a) Certificate of Likely Compliance issued by Protek Building Surveying Services Pty Ltd (If Category 3) or;
  - b) Building Permit (If Category 4)
- 13.2 If Protek Building Surveying Services Pty Ltd is requested by the owner or the owner's agent to carry out an inspection of the building work, the owner shall provide Protek Building Surveying Services Pty Ltd with not less than 24 hours' notice and shall cease any works on the subject property until Protek Building Surveying Services Pty Ltd has caused the subject property to be inspected.
- 13.3 Protek Building Surveying Services Pty Ltd shall carry out inspections to check for compliance with the Act, Regulations and approved documents, but is not engaged to supervise any of the work. It is the responsibility of the builder to construct the building in accordance with the approved permit documents, the National Construction Code and relevant standards.
- 13.4 Variations must be approved by Protek Building Surveying Services Pty Ltd prior to construction and those variations that require further documents, surveys, assessments and/or approvals will incur additional fees in accordance with the Schedule of Fees (Amendment).
- 13.5 The owner shall pay Protek Building Surveying Services Pty Ltd the fee or a fee adjustment required under this Engagement for any inspections.
- 13.6 It is the responsibility of the owner/builder to contact Protek Building Surveying Services Pty Ltd for the mandatory inspections as specified on the Certificate of Likely Compliance or Certificate of Substantial Compliance.
- 13.7 The owner/builder shall pay for any additional inspections before the Issue of the Certificate of Final Inspection/Completion Certificate. Additional inspections are those carried out which exceed the amount of inspections specified on the tax invoice or re-inspections of past failed inspections.
- 13.8 It is the owner/builder's responsibility to ensure a copy of all documentation and endorsed plans are available on site at all times to ensure all tradesmen carry out the building work strictly in accordance with the approved plans, National Construction Code and relevant standards and regulations, and to allow for mandatory building inspections.
- 13.9 Where applicable, all prefabricated floor and roof truss manufacturer computations and plans are to be submitted to Protek Building Surveying Services Pty Ltd office for assessment and approval 48 hours prior to erection on site. Frame inspections will not be booked until truss computations and plans have been approved by Building Surveying Services Pty Ltd.
- 13.10 The issuing of a Building Inspection Direction will incur an additional fee as per the schedule of fees.

## 14 ADDITIONAL SERVICES

- 14.1 Protek Building Surveying Services Pty Ltd may perform additional services in exercising its obligations under this Engagement, the Building Act 2016 and its Regulations and/or any other relevant legislation including but not limited to:
  - a) Obtaining additional information and documents from statutory reporting authorities, councils, permit authorities and function control authorities as required;
  - b) Carrying out additional inspections/re-inspections of the subject property;
  - c) Reporting any matters to the Director of Building Control, statutory reporting authorities, councils, permit authorities and function control authorities;
  - d) Responding to any requests for information from the Director of Building Control or other authority including but not limited to statutory reporting authorities, councils, permit authorities and function control authorities and the Appeal Tribunal;

- e) Issuing any Notices or Orders under the Building Act 2016 and the Regulations. Issue of Building Orders and Notices will incur a fee as specified in the schedule of fees;
  - f) Preparation or Certification of performance based solutions pursuant to the National Construction Code;
  - g) Fire Engineer's fees and independent review related to any alternative solutions under the performance provisions of the NCC (if required);
  - h) Tasmanian Fire Service fees and consultancy involved with seeking variations to fire service matters;
  - i) Protection Notice Determinations;
  - j) Attendances at appeals (e.g. protection of adjoining properties etc.);
  - k) Assessment of design amendments after the issue of the initial Certificate of Likely Compliance or Certificate of Substantial Compliance;
  - l) Disbursements other than those specifically included in the schedule of fees.
- 14.2 Upon Protek Building Surveying Services Pty Ltd carrying out additional prescribed building services, the owner shall pay Protek Building Surveying Services Pty Ltd the fee or a fee adjustment required under this Engagement and as specified in the schedule of fees.

## 15 BUILDING NOTICES & ORDERS

- 15.1 Building Notices and Orders are formal documents prescribed by the Building Act 2016 when breaches and non/compliance are identified. Notices and Orders are required to be served as a matter of course for significant areas of noncompliance or where safety is or may be compromised. In the case of routine rectification works, an inspection report or letter will normally be sent to the owner and/or builder as applicable and if there is no response within an appropriate time (14 or 30 days) a Building Notice will be served and further fees will be payable.

## 16 OWNERS OBLIGATIONS

- 16.1 The owner hereby acknowledges his/her/its ongoing obligations pursuant to the Building Act 2016 and the Regulations including but not limited to:
- a) providing Protek Building Surveying Services Pty Ltd with unrestricted access to the subject property;
  - b) not obstructing Protek Building Surveying Services Pty Ltd in carrying out its required functions;
  - c) not provide Protek Building Surveying Services Pty Ltd with any information which may be misleading or deceptive;
  - d) advising Protek Building Surveying Services Pty Ltd:
    - (i) of any changes in relation to the engagement of a Licenced Building Practitioner or architect/building designer within 14 days of such change;
    - (ii) of any change to the owner's contact details;
    - (iii) if building work ceases on the subject property;
    - (iv) if the subject property is transferred to a new owner: and
  - e) ensuring the building work the subject of any Building Permit or other approvals issued by Protek Building Surveying Services Pty Ltd are carried out in accordance with the Building Permit/Certificate of Likely Compliance/Permit of Substantial Compliance, directions of Protek Building Surveying Services Pty Ltd, the Building Act 2016, Building Regulations 2016, the National Construction Code and relevant standards and codes;
  - f) making application for and obtaining required Occupancy Permit, Certificate of Final Inspection, Certificate of Completion, commissioning relevant reports and providing consent deemed by Protek Building Surveying Services Pty Ltd to be necessary for the carrying out of the functions.

## 17 ENTIRE ENGAGEMENT

17.1 This document embodies the entire engagement between the parties and any previous or simultaneous negotiations, representations, arrangements and engagements are superseded by this engagement. No amendment or variation may be made to this engagement other than in writing executed by each of the parties.

## 18 SEVERANCE

18.1 In the event that any condition or provision of this Engagement is held to be invalid or unenforceable for any reason whatsoever, that condition or provision shall be read down to the extent necessary to give it, if possible, partial operation, but if that is not possible the condition or provision may be severed and the remainder of this Engagement shall remain in full effect.

## 19 DEFINITIONS

Agent	means a person who has been formally appointed by the Owner to apply for the building approval as the applicant on the Owner's behalf;
Appeal tribunal	has the same meaning as in the Resource Management and Planning Appeal Tribunal Act 1993;
Building	includes structure, temporary building, temporary structure and any part of a building or structure;
Building Designer	in relation to building design work, means the holder of a Licence under the Occupational Licensing Act 2005 that authorises the holder of the licence to do the building design;
Building Services Provider	has the same meaning as in the Occupational Licensing Act 2005;
Building Surveyor	has the same meaning as in the Building Act 2016 Section 28;
Building Work	means work for or in connection with the construction, demolition or removal of a building or part thereof;
Council	means a council within the meaning of the Local Government Act 1989;
Director of Building Control	means the person appointed under section 15(1) of the Building Act 2016 as the Director of Building Control;
Fee	means the fee quoted or calculated in accordance with the Schedule of Fees attached hereto;
Fee adjustment	means a sum to be added to or deducted from the fee calculated in accordance with the Schedule of Fees attached hereto;
Function	includes power, authority and duty;
Legislative requirements	includes (a) Acts, Ordinances, regulations, bylaws, orders, awards and proclamations of the jurisdiction where Services are being provided;  (b) Certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in connection with the carrying out of the Services and  (c) Fees and charges payable in connection with the foregoing;
Licensed builder	means (a) the holder of a building services licence under the Occupational Licensing Act 2005 that authorises the holder of the licence to perform the building work; or

	(b) an owner builder who holds an owner builder permit under that Act that authorises the owner builder to perform the building work;
Licensed Plumber	in relation to plumbing work, means the holder of a licence under the Occupational Licensing Act 2005 that authorises the holder of the licence to perform the plumbing work;
Owner	in relation to premises, includes the following persons: <ul style="list-style-type: none"> <li>a. every person who jointly or severally, whether at law or in equity, is entitled to the premises for any estate in freehold in possession;</li> <li>b. a person who has contracted to buy the premises;</li> <li>c. in the case of premises that are subject to a mortgage, the person for the time being holding the equity of redemption in that mortgage;</li> <li>d. in the case of premises held under a tenancy for life, the person who is the life tenant;</li> <li>e. in the case of premises held under a lease for a term of not less than 99 years or for a term of not less than such other prescribed period, the person who is the lessee of the premises;</li> <li>f. if the premises are Crown land, the Minister, authority or other person responsible for the management of the land;</li> <li>g. any other person holding a prescribed interest in the premises;</li> </ul>
National Construction Code	means the National Construction Code series published by the Australian Building Codes Board, as amended or substituted from time to time;
Permit Authority	has the same meaning as in the Building Act 2016 Section 24.

## 20 SCHEDULE OF FEES – Protek Building Surveying Services fees and charges

Schedule of additional fees that may be applicable for the project. All fees are GST inclusive. All fees are subject to change.

<b>Administration</b>	\$132.00	Flat fee (per hour)
<b>Amendment to Building Permit</b> (Includes submission to council. Does not include Council amendment fee)	\$332.00	Minimum fee
<b>Extension to Building Permit</b> (Increases by \$55 GST incl. each year. Does not include Council admin fee)	\$345.00	Flat fee
<b>Inspection</b> (Within 30km Launceston)	\$220.00	Flat fee
<b>Issue of Building Notice or Building Order</b>	\$440.00	Flat fee
<b>Owner Builder admin fee</b> (Change from accredited builder to Owner Builder)	\$242.00	Flat fee
<b>Re-stamping fee</b> (Charged when a change has been made to plans which have already been submitted to council but Permit not issued. (plans to be stamped and swapped over)	\$80.00	Minimum fee
<b>Retrieval of archived file</b> (When a document is requested to be provided but file is archived)	\$47.00	Minimum fee
<b>Re-open resigned file</b> (Includes inspection and issue of completion certificate)	\$440.00	Minimum fee
<b>Travel</b> (over 30km Launceston)	\$2.20	Flat fee (per KM)
<b>Title download</b> (Folio Text & Folio Plan)	\$48.00	Flat fee

## 21 Who is a Building Surveyor?

- 21.1 A Building Surveyor is a building services provider who is engaged by the owner of premises to perform or exercise, in respect of the premises, the functions or powers of a Building Surveyor under this Act.
- 21.2 A person must not accept an engagement to perform the functions or exercise the powers of a Building Surveyor, in respect of work performed on premises, if the person -
- a) does not hold a licence under the Occupational Licensing Act 2005 that authorises him or her to perform those functions, or exercise those powers, of a Building Surveyor; or
  - b) has performed, or is required under the Act to perform, the functions or powers of a permit authority in respect of the work; or
  - c) has provided professional advice in respect of the work in accordance with section 33', or
  - d) is the owner of the premises where the work is to be performed; or
  - e) was an employee of the owner of the premises immediately before he or she was engaged as a Building Surveyor for the premises; or
  - f) is named, or is to be named, on a permit in relation to the work as the licensed builder or building services provider, or is an employee of the licensed builder or building services provider so named; or
  - g) is a private consultant of a person referred to in paragraph (d) or (l) in respect of the work; or
  - h) is the employer of a person referred to in paragraph (f) or of persons performing building contracts generally; or
  - i) has prepared, or reviewed, the design for the building work or a performance solution proposed as part of the work; or
  - j) was employed in the immediately preceding 12 month period by a designer of the work; or
  - k) has a direct, or indirect, pecuniary interest in —
    - (i) the designer of the work; or
    - (ii) the work or premises where the work is to be performed; or
    - (iii) any other person associated with the work or premises where the work is to be performed; or
  - l) has a potential conflict of interest between his or her functions as a Building Surveyor and his or her personal or business interests.
- 21.3 A person must not accept an engagement as a Building Surveyor unless —
- a) the prospective Building Surveyor has provided, to the person engaging the person as a Building Surveyor, a complete schedule of fees that may be charged by the Building Surveyor in the course of the engagement; and
  - b) the person engaging the Building Surveyor has agreed to that schedule of fees.
- 21.4 The Minister may, by notice in the Gazette, appoint the Director of Building Control as Building Surveyor, or to undertake the functions of a Building Surveyor that are specified in the notice, on the terms and conditions specified in the notice.

## 22 Person must not act as Building Surveyor

- 22.1 A person must not perform any of the functions, or exercise any of the powers, of a Building Surveyor under this Act in respect of work unless he or she —
- a) is engaged, by the owner of the premises where the work is being performed, to perform the functions, or exercise the powers, of a Building Surveyor in respect of the work; or
  - b) is acting in accordance with a notice of the Minister under section 28(4).



22.2 A person engaged as a Building Surveyor under this Act must not perform any of the functions, or exercise any of the powers, of a Building Surveyor under this Act that he or she is not authorised to perform or exercise under the Occupational Licensing Act 2005.

## 23 Functions of a Building Surveyor

23.1 A Building Surveyor must perform the following functions in respect of the work for which he or she is engaged as a Building Surveyor:

- a) within 7 business days after granting, issuing or amending a Certificate of Likely Compliance, a Certificate of Substantial Compliance, an Occupancy Permit or a Temporary Occupancy Permit, provide the relevant permit authority with -
  - (i) a copy of the permit or certificate, or the permit or certificate as amended; and
  - (ii) such other documents, if any, specified by the Director of Building Control;
- b) keep a register, at his or her principal place of business, of —
  - (i) each certificate or permit granted, or amended, by the Building Surveyor under this Act; and
  - (ii) each determination made by the Building Surveyor in accordance with this Act.

23.2 A Building Surveyor may perform any one or more of the following functions in respect of the work for which he or she was engaged as a Building Surveyor:

- a) review all documentation submitted as part of an application for a Certificate of Likely Compliance or Certificate of Substantial Compliance;
- b) liaise with statutory reporting authorities, councils, permit authorities and function control authorities as required;
- c) inspect proposed building work on special/use buildings or other specified buildings;
- d) inspect work relating to the reuse, occupancy or reclassification of existing buildings;
- e) give start-work authorisations to responsible persons before work commences;
- f) grant permission to responsible persons to proceed with building work at certain stages;
- g) inspect building work and demolition work and buildings and temporary structures where such work is to be, or is being, performed;
- h) certify the condition of work, or proposed work, in certain circumstances;
- i) issue permits, certificates and other documents as required under this Act;
- j) any other function specified in this Act or required by the Director of Building Control.

## 24 Powers of Building Surveyors

24.1 A Building Surveyor may, at all reasonable times, enter any premises or land -

- a) where there is a building, temporary structure or building work in respect of which he or she has been engaged under this Act as a Building Surveyor; or
- b) for the purpose of performing a function or exercising a power under this Act.

24.2 A Building Surveyor has the following powers when acting as a Building Surveyor:

- a) to issue notices or orders about work started without a permit or start—work authorisation, if required;
- b) to issue notices or orders about non-compliance with the requirements of this Act;
- c) to issue directions, in certain circumstances, to rectify non-compliant work;
- d) to take photographs, films and video recordings in any premises lawfully entered under this Act;
- e) to require the production of documents or records relating to a building, temporary structure, premises or building work;
- f) to require the production of documents or records required to be kept under this Act as if he or she were the owner of the premises in respect of which he or she has been engaged as the Building Surveyor;

- g) to search for, inspect, or require explanation in respect of, any record required to be kept, or produced, under this Act;
- h) to take notes, copies and extracts of or from any record, document or statement produced or required under this section,

24.3 A person to whom a request of a Building Surveyor is directed under subsection (2) must not, without reasonable excuse, fail to comply with the request.

## 25 Building Surveyor must exercise powers

25.1 A person engaged to perform the functions, and exercise the powers, of a Building Surveyor under this Act must, as appropriate, perform those functions and exercise those powers while so engaged.

## 26 Building services provider may act as adviser

26.1 A building services provider may provide professional advice on issues of a technical or specialised nature in respect of work without being engaged as a Building Surveyor for the work if-

- a) he or she has not been engaged at any time, by the person seeking the advice, to perform the functions of a Building Surveyor under this Act in respect of the work; and
- b) another person is to be, or has been, engaged to perform the functions of a Building Surveyor under this Act in respect of the work.

## 27 Building Surveyor may seek second opinion on performance solution

27.1 If a Building Surveyor is assessing a performance solution in respect of work, the Building Surveyor may seek the opinion of another building services provider, who is qualified to review such a performance solution, as to whether both the performance solution and the work

- a) comply with the relevant performance requirements of the National Construction Code; or
- b) do not comply with those performance requirements.

27.2 The Director of Building Control may determine whether a person, or a class of persons, is qualified to review a performance solution.

## 28 Only one Building Surveyor to be engaged for work

28.1 If work is being performed on a premises under this Act the owner of the premises must engage a Building Surveyor, if required, for the work to be performed in accordance with this Act.

28.2 A person must not engage a person as a Building Surveyor in respect of work where a Building Surveyor has previously been engaged in respect of the work unless the previous Building Surveyor has—

- a) been removed as a Building Surveyor in respect of work in accordance with section 36; or
- b) resigned as Building Surveyor in respect of the work in accordance with section 37; or
- c) referred the work to the new Building Surveyor in accordance with section 38.

## 29 Change of Building Surveyor at owner's request

29.1 Subject to section 38, a person who engages a Building Surveyor must not remove that Building Surveyor from that engagement without the consent of the Director of Building Control.

29.2 The Director of Building Control may consent under subsection (1) to the removal of a person from an engagement as a Building Surveyor if the Director of Building Control is satisfied on reasonable grounds that —

- a) the person is incapable of performing the functions of Building Surveyor for which he or she was engaged; or
- b) the person is no longer the Building Surveyor, or is no longer suitable to be the Building Surveyor; or
- c) the person is no longer qualified to perform the functions of Building Surveyor for which he or she was engaged; or
- d) the person has engaged in professional misconduct.

### 30 Change of Building Surveyor at Building Surveyor's request

- 30.1 Subject to section 38, a person who has been engaged as a Building Surveyor by another person must not resign from that engagement without the consent of the Director of Building Control.
- 30.2 Despite subsection (1), a person who has been engaged as a Building Surveyor by another person may resign from that engagement, without the consent of the Director of Building Control, by notice in writing to the other person if it has been at least 3 years since his or her engagement as a Building Surveyor by that person,
- 30.3 Within 7 business days after resigning from an engagement under subsection (2), the Building Surveyor is to -
  - a) notify the Director of Building Control and the relevant permit authority of the resignation; and
  - b) forward to the relevant permit authority copies of all documents, relevant to the building work, as specified by the Director of Building Control.

### 31 Change of Building Surveyor where both parties agree

- 31.1 Despite sections 36 and 37, a person who has engaged a Building Surveyor in respect of work and the Building Surveyor so engaged may agree that work is to be referred to a new Building Surveyor.
- 31.2 An agreement under subsection (1) to refer work to a new Building Surveyor does not require the consent of the Director of Building Control.
- 31.3 A Building Surveyor who has entered into an Engagement to refer work under subsection (1) must refer, within the specified period, the work to a new Building Surveyor who -
  - a) has accepted the referral; and
  - b) is acceptable to the other parties to the agreement.
- 31.4 A person who has previously engaged a Building Surveyor, in respect of work to be referred under this section, must not engage a new Building Surveyor in respect of work unless the previous Building Surveyor has referred the work to the new Building Surveyor under subsection (3).
- 31.5 Once a new Building Surveyor has been engaged in respect of work that is the subject of an Engagement under this section, the previous Building Surveyor is no longer the Building Surveyor in respect of the work.

### 32 Transfer of documents in certain circumstances

- 32.1 If-
  - a) the owner of premises has engaged a person as a Building Surveyor in respect of work at those premises; and
  - b) another Building Surveyor was previously engaged in respect of that work - the owner may request, in writing, that the previous Building Surveyor transfer to the new Building Surveyor, within the period specified in the request, specified documentation held by the previous Building Surveyor in respect of that work.

32.2 A person who receives a request under subsection (1) must comply with the request.

If-

- a) a person ceases to act as a Building Surveyor in respect of work that is yet to be completed at premises; and
- b) the owner of the premises does not engage another person as Building Surveyor in respect of the work –  
the person who has ceased to act as a Building Surveyor must provide the specified documentation held in respect of the work to the relevant permit authority for the work within 28 days after ceasing to act as Building Surveyor in respect of the work.

### 33 Notification of change of Building Surveyor

33.1 A person who engages a new Building Surveyor in respect of work under this Division —

- a) must notify the relevant permit authority of the details of the Building Surveyor so engaged and any other prescribed information; and
- b) if requested to do so by the relevant permit authority, is to inform another person as specified of the details of the Building Surveyor so engaged.

### 34 Owners

34.1 The owner of premises where building work is performed, or is to be performed, is to ensure that —

- a) any person engaged to perform the building work, or building services work is qualified to perform the work as required under this Act or any other Act; and
- b) information provided to any person engaged to perform the building work, and any work associated with the building work, is correct to the owner's knowledge; and
- c) the premises where the building work is to be performed are clearly identifiable; and
- d) an adjoining premises is protected in accordance with this Act if required; and
- e) the building is not occupied until an Occupancy Permit has been issued, if required; and
- f) sufficient information is supplied to another owner of the premises for the other owner to maintain the premises in accordance with this Act.

34.2 An owner of premises where plumbing work is performed, or is to be performed, is to ensure that the person engaged to perform the work is qualified to perform the work as required under this Act.

34.3 An owner of premises where demolition work is performed, or is to be performed, is to ensure that the person engaged to perform the work is qualified to perform the work as required under this Act.

34.4 The owner of premises, so far as is reasonably practicable, is to -

- a) ensure that the premises are used and maintained in accordance with this Act; and
- b) ensure compliance with this Act and any permits issued under this Act in respect of the premises: and
- c) notify the permit authority of any changes to the responsible person or Building Surveyor if work is to be performed on the premises; and
- d) if a permit has been issued in respect of work to be performed on the premises ensure that —
  - (i) the work is completed before the expiry of the permit; or
  - (ii) the permit is extended or renewed.

### 35 Change of parties involved in certain building work

- 35.1 This section applies to premises where a building permit has been issued, or a notice of work has been given, in respect of building work to be performed at the premises.
- 35.2 The owner of premises to which this section applies must notify the relevant Building Surveyor in writing, within 14 days after engaging a person as a licensed builder to perform the work, of -
- a) the name and current business address for the licensed builder; and
  - b) the licence number, issued under the *Occupational Licensing Act 2005* to the licensed builder. under which the work is being performed; and
  - c) any other prescribed information.
- 35.3 The owner of premises to which this section applies, who intends to perform the work as an owner builder, must notify the relevant Building Surveyor in writing of —
- a) the identifying details of the owner builder permit, issued under the *Occupational Licensing Act 2005* under which he or she intends to perform the work; and
  - b) any other prescribed information.
- 35.4 If, after a building permit has been granted or a notice of work has been given to a building surveyor, but before the building work is complete -
- a) the owner of the relevant premises where the building work is performed; or
  - b) an agent appointed by the owner; or
  - c) the designer of the building work; or
  - d) the builder of the building work — ceases to be the owner, agent, designer or builder as the case may be. Or changes his or her name or address, he or she must notify the Building Surveyor and the permit authority in writing of that change.

### 36 Change of parties involved in certain plumbing work

- 36.1 If -
- a) a plumbing permit has been issued in respect of permit plumbing work or a notice of work in respect of notifiable plumbing work has been given to a permit authority; and
  - b) a licensed plumber is engaged to perform the plumbing work under the plumbing permit or notice of work, the owner of the premises where the work is, or is to be performed must, within 14 days after that engagement, give the relevant Permit Authority written notice of the engagement, including details of the licensed plumbers licence.
- 36.2 If, after a Plumbing Permit has been granted or a start work notification in respect of plumbing work has been given to a Permit Authority, but before the plumbing work is complete —
- a) the owner of the relevant premises; or
  - b) an agent appointed by the owner; or
  - c) the designer of the plumbing work; or
  - d) the licensed plumber responsible for that plumbing work - ceases to be the owner, agent, designer or plumber as the case may be, or changes his or her name or address, he or she must notify the Permit Authority in writing of that change.