

OCCUPANCY PERMITS



An occupancy permit must be obtained from a permit authority before a Class 2-9 building can be occupied. It covers such scenarios as:

- Occupying a completed new building or a new part of an existing building;
- Occupying a building or part of a building that has undergone a change of use or classification;
- Authorising and occupying an unauthorised building or an unauthorised part of a building; and
- Occupying an incomplete building or part of a building on a temporary basis.

Are there exemptions?

Section 41 of the *Building Act 2011* and regulation 43 of the *Building Regulations 2012* set out when an occupancy permit is not required. Class 1 and Class 10 buildings do not require an occupancy permit. Part 5, Division 2 of the Building Act also contains exemptions for buildings incidental to certain processes and operations. Consult with the permit authority to determine whether an exemption applies.

An occupancy permit application must be accompanied by:

- A certificate of construction compliance (BA17) for new buildings (including new building work to existing buildings) or a certificate of building compliance (BA18) for existing buildings, signed by a building surveyor. Forms for BA17 & BA18 available from the Building Commission website;
- Evidence of the following authorities under written law as relevant to the building or incidental structure (r.37) –
 - a) An approval required under the *Health Act 1911* section 107(2)(a) or (b);
 - b) An approval required under the *Planning and Development Act 2005*;
 - c) An approval required under the *Health (Aquatic Facilities) Regulations 2007* Part 2 Division 1;
 - d) An approval required under the *Local Government (Uniform Local Provisions) Regulations 1996* regulation 12(2).
- Evidence of consent(s) from each affected owner where work encroaches onto or adversely affects other land (if applicable); and
- Payment of the prescribed fee and levy (if applicable).

The permit authority may request additional information as required to determine the application.

Occupancy Permit (transitional)

Where an occupancy permit is required for building work associated with a 'building licence' that was issued prior to the Building Act, an occupancy permit (transitional) must be granted in accordance with s. 182A. There is no requirement for a certificate of construction compliance or certificate of building compliance or any further fees for this type of application; however the permit authority will need to be satisfied that the building in its current state is suitable to be used in the way proposed in the application.

Which Occupancy Permit should I apply for?

To determine what type of Occupancy Permit is required please answer the following questions:

1. Is the Occupancy Permit application for a current Building Permit issued after the 1st April 2011, and there have been no unauthorised changes made to the original Building Permit as issued?
 Yes Select s46 or s47 (see "Description of Types of Occupancy Permits" below (1. (a) or (b))
 No Next
2. Would you like to modify a current Occupancy Permit for additional use of building on a temporary basis?
 Yes Select s48
 No Next
3. Do you have a Change of Use approval and no Building Permit was required?
 Yes Select s49
 No Next
4. Do you require an Occupancy Permit-Strata for the purposes of obtaining a strata title subdivision approval?

Yes Input Strata Plan Number on BA9 Form

No Next

5. Do you have a current Building Permit and have undertaken works not included in the approval
Or

Have you undertaken building works without a Building Permit?

Yes Select s51

No Next

6. You would like a copy of the current Occupancy Permit and none of the above questions apply?

Yes Select s52

If you are unsure of which Occupancy Permit type to select please contact the Shire's Development Services team on (08) 9756 1018.

Description of types of Occupancy Permits

1. Section 46 & 47

a) New building – complete (section 46 of the Building Act 2011)

A new building (including fit outs/Alteration & Additions) that has been completed and a current Building Permit has been issued.

NOTE: An Occupancy Permit is not mandatory for fit out/ alteration or addition works unless planning approval for a Change of Use was issued prior to the Building Permit or the works were not authorised prior to construction.

b) New building – incomplete (section 47 of the Building Act 2011)

Partial Temporary Permit for new building, fit out or alteration and additions works that are incomplete and a current building permit has been issued.

2. Section 48

Additional use of the building on a temporary basis (section 48 of the Building Act 2011)

To modify the current Occupancy Permit for an existing building if

- a) The person proposes that in addition to the use authorised by the current Occupancy Permit, the building is to be used in another way; and
- b) The person proposes that the building would be used in the additional way for no longer than one year; and
- c) The additional use does not require building work of a kind for which a building permit is required.

3. Section 49

Permanent change of the building's classification (section 49 of the Building Act 2011)

Note: Only select s49 on the application form if planning approval for a Change of Use has been issued AND no Building Permit was required.

When a Change of Use approval has been issued and NO Building Permit is required.

- a) That the building is to be used, on a permanent basis, in a way that is different from the use authorised by the current Occupancy Permit;
- b) That the building's classification is to be different from that set out in the current Occupancy Permit.

4. Section 51

Unauthorised work (section 51 of the Building Act 2011)

- a) For unauthorised works where a building permit has not been sought
- b) Where a building permit has not been sought for changes to the original building permit.

5. Section 52

Replacement of existing Occupancy Permit or Certificate of Classification (section 52 of the Building Act 2011)

A person may apply for an occupancy permit to replace the current Occupancy Permit for a building, even if no change is proposed to the building's use or classification.

When is the Building Service Levy applicable on an Occupancy Permit application?

The Building Service Levy will be required to be paid on an Occupancy Permit UNLESS a Building Service Levy has already been previously paid in association with a Building Permit.

A building service levy is payable for a:

- s47 - New building – incompleting project
- s49 - Permanent change of the building's classification
- s52 - Replacement of existing Occupancy Permit or certificate of classification
- s51 - Unauthorised work

A building service levy IS NOT required for a:

- s46 - New building (including fit outs/Alteration & Additions) – completed project
- s48 - Additional use of the building on a temporary basis

Building Service Levy fees are available on the Building Commission Website.

Applications forms for a BA9 Occupancy Permit can be downloaded from the Building Commission website:
<https://www.commerce.wa.gov.au/publications/ba9-application-occupancy-permit>

Process for applying for an Occupancy Permit

