

# The 7 things you MUST ask BEFORE signing your Building Contract





*Buying a new home will likely be the largest purchase you ever make!*

Going through the process of designing your new home, selecting all the fittings and fixtures and then watching it start to rise out of the ground should be an exciting time in anyone's life. Select the right builder and it will be a pleasurable experience, choose the wrong builder and it can be a heartbreaking and often costly lesson. All too often new purchasers enter into a building contract without checking out the builders' credentials.

When you are building a new home, your builder will be there with you right throughout the project. To ensure that you can work together successfully, it's important to find out as much information as you can before entering into any business relationship.

The following key questions can help you find a builder with the right fit.



Is the construction company right for you?

The first things you should determine are:

- *Is your builder allowed to build in the state?*
- *Do they have the skills and experience to undertake the proposed project?*

*This is particularly true if you plan on building in a difficult location or your design requires special construction skills.*

### **Is the Builder registered?**

*The most important thing to remember when selecting your builder is that they must be registered with the appropriate State Building Authority in the state construction is to take place. It is vital that the builder is registered, as this will provide protection under the QBCC Building Indemnity Scheme that insures your home against major defects for 6.6 years.*

*You can check if a builder is registered by contacting your QBCC or by performing an online check or simply asking to see the contractor's registration card.*

*Art Deco, Colonial, Contemporary, Federation or Mediterranean. No matter what style of home you plan; your builder should be able to work in the style and design of your new home.*

### **Types of Building Style and Design**

*A builder should be able to work to the style and design of your home. They should also be able to advise you on ways to incorporate various elements into your home so that it matches the existing style.*

*Many builders specialize in a particular style so it may be worth searching for one that can build exactly what you are looking for. If you are not sure what it is that you are after, a builder should be able to assist you with some options.*

*Project homes are a common choice for many Australian families. If your site is not suitable or you want to have more individuality you may have to choose a custom builder or project manager.*

*Take a look at some of the builders past projects, this will allow you to see if the builder can work to your style and specification. Ask for references and visit sites in person if possible. Past clients may be willing to share their experience.*

### **Check the builder holds the correct insurances**

Check the builder holds the correct insurances, including Home Building Insurance, Public Liability Insurance and Worker's Compensation. Ask to see the certificates of insurance. Should there be a claim against the builder coverage will ensure your project is not affected.

### **Do you work in the area I plan to Build?**

Ask your builder if they do work in your proposed area, if they don't they may have to source alternative, untested supervisors and subcontractors which may lead to substandard work.

*It is important to remember that building a new home is not only a huge financial investment; it can also take quite an emotional toll. Spend some time to investigate your potential builder's references and credentials.*



Check your builders  
Credentials

**How many properties do you currently have under construction?**

This will give you an indication of the size of the company. Whether they are a small builder or a larger project style construction company. A company with a full book of current projects may be viewed as an indication of trusted, they are reliable and the work is in high demand. However, ensure they have the capacity to manage your project professionally.

**Have you ever been declared bankrupt?**

A builder who has gone bankrupt in the past may end up doing so again in the future. It is important to ensure your project is completed and avoid delays if your builder becomes insolvent while your project is under construction.

**Do they have any past or current building disputes?**

Find out whether the builder has any current or past building disputes with the relevant Building Authority in your State. This will give you an idea about the builder's general reliability and professionalism as well as the overall quality of their work.

### **How long have they been in business?**

Find out how long the builder you are considering has existed and whether it has always traded under the same name. A builder that has changed names may be a sign of past problems they wish to avoid.

The average life of a building company in Australia is less than four years. A builder who has been trading for more than four is usually the sign of a company with a good business profile and who has been successful to date.



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*Equally important as the builder's skills is having someone you can communicate with and can trust. If you don't feel comfortable in the Initial discussions then don't hire them for your project.*

*How will you communicate with your builder once the job starts?*

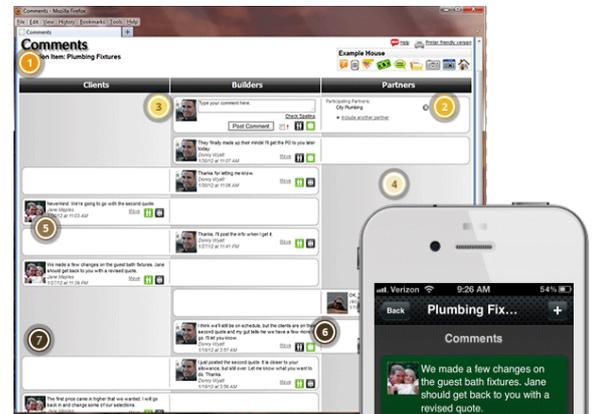
*Building a home can be one of the most stressful times in person's life. It can be a difficult time if the project does not progress as expected.*

*You will be in a business relationship with your builder and you must have a clear line of communications defined before you enter into a contract.*

*Does the builder have systems in place to keep you informed?*

During the planning and construction of a home there will be many questions to be answered and decisions made. A regular steady flow of information between you and the builder will help ease the process. Does the builder schedule regular onsite meetings, allowing you to view the work progress and to discuss any construction issues that may arise from time to time?

Does the builder have reporting systems in place to keep you informed, advise you of any issues as they arise or to seek you input on building decisions. Does the builder have a document process to ensure all correspondence is recorded and acknowledged to eliminate disputes over misunderstandings or incorrect instructions?



How will I Communicate

*Building a home is a complete process! Requiring interaction with State Government Authorities, local Councils, and Lawyers! Financial Institutions and Suppliers along with the Client and Builder. A fully compliant contract will detail all the interactions and responsibilities of both the Client and Builder. Expect a detailed contract to be 20-30 pages; if there are any less than that you should check to see what has been left out.*

## Has everything been specified?

### *What should the Building Contract Include?*

**A building contract must thoroughly specify the work to be completed, along with the following;**

- ✓ The commencement and completion date of the project should be clearly stated or easily able to be worked out.
- ✓ Your name as the home buyer and the contractor's license number should be included.
- ✓ A description of all the work to be carried out during the building process, including plans, specifications, and any particular requirements that you may have.
- ✓ The necessary insurances.
- ✓ The contract price.
- ✓ A clearly stated cooling off period.
- ✓ The Consumer Building Guide which you must read and acknowledge.
- ✓ A checklist of items and a caution about signing the contract if you can't tick yes to all items.
- ✓ A place for the buyer to acknowledge that they have read and understood everything in relation to the contract.
- ✓ Prime Cost or Provisional Sum items are clearly stated, along with the builder's margin to be applied.
- ✓ Progress payments are outlined.
- ✓ A clause that states that all work will comply with the Building Code of Australia as well as the other standards required by law.
- ✓ That the contract begins on the day when the last party signs the contract and the other party is made aware of the signing of the contract date- this is the contract date and should not be confused.

## **Selections and Schedules**

The initial quote you received was most likely for a specific home design built with basic materials and fittings. If you are building a Project home you will have the opportunity to specify some of the materials, fittings and fixtures with their Colour Consultants. However, you should be aware that the initial quote you received may have been for a basic package and that any materials or fixtures that you specify above the basic package may add to the contract price.

Whether you are building a Project home or a Custom Built home wherever possible have all your selections (taps, baths, tiles. etc.) detailed in the contract price before you sign. This will provide certainty of price and availability of selected items. See Prime Costs Items below.

## **Drawings and specifications**

The Drawings are the builder's instructions about the measurements and features of the property being constructed. The Specifications are the agreed instructions about the materials and building methods to be used to construct the house. If you have any concerns about this part of the contract, you may need to consider employing an Architect to provide you some advice. Important - The Order of precedence is: **Contract - Specifications - Plans.**



### **Have you read, checked and understood all of the contract documents thoroughly?**

Insist on the use of a recognized form of building contract, such as those published by the Queensland Master Builders Association.

If you don't understand any part of the documents, ask questions and seek your own expert or legal advice. Make sure that you understand what your contractual obligations are, as well as your builder's. If you are not happy, don't sign. If you want anything changed, this is the time to do it.

### **Progress Payments**

- Does the contract require the release of progress payments at various stages of construction?
- Is the work to be completed for each stage specified?
- Are the terms satisfactory to you and to your finance provider?

When a builder issues a Progress Payment Request, make sure the specified work has been completed and verified. Should you make a payment ahead of a stage completion you may compromise your insurance coverage?

### **How long is the building maintenance period?**

This is the period of time after your property is handed over, that the builder will perform any necessary building maintenance. This is similar to a warranty period. For residential properties this is typically six months.



Is the Contract Correct?

### **Paying deposits**

For home building contracts with work to be covered by a home building insurance scheme, the builder can ask you to pay a deposit of around 5% of the total contract price. Never pay a deposit until the builder has given you a certificate of currency for domestic building insurance for your property. This insurance will cover you if the builder becomes insolvent and is unable to proceed .

### **Cooling off period**

In Queensland, there is a “Cooling Off Period” in the contract by law. During the Cooling Off period, usually 5 days, you are able to withdraw from the contract, but you may still be liable for the expenses that the builder has already incurred.

Building companies usually own the copyright to their home designs and plans. If you sign an initial agreement and pay for a particular plan, you cannot have the home built by a different builder.

If you decide not to proceed to construction after signing an initial agreement, the building contractor may be able to keep some or all of the money already paid.

### **Cost Plus**

Have you checked to ensure the contract is not 'Cost Plus'? A cost plus contract allows the builder to recover the full costs of materials, supplies, labour and overheads plus a predetermined builder's margin.

An advantage of a Cost Plus contract is it allows you to purchase materials, fittings and fixtures at reduced costs or to focus on quality rather than budget. The downside is the uncertainty to the project owners, because the final cost cannot be easily determined.

***If you are contemplating signing a 'Cost Plus' contract, you should be fully aware of the consequences.***

## **Demolition**

If you are planning to demolish an existing home to build new or just knocking down part of a structure to extend? If so you will need to decide whether to directly employ a demolition firm or to include the work in your new construction contract.

If you choose to arrange your own demolition, you will need to ensure that you have signed off on all the new build contracts before you start.

Before any demolition can begin you will need to contact your Local Council and obtain a Demolition Permit along with the Building Permit for the new construction.

You may also need to consider a traffic management service for the equipment delivery and debris removal phases of the project, particularly if you are on a major road.

If you have employed your own demolition contractor, they should be insured against any damage to your neighbour's property or other structures. Ask to see a copy of the contractor's Demolition and Indemnity insurance before any works begin.

If you contract your builder to complete the demolition works they will undertake all these tasks on your behalf. Demolition is not covered by the Builder's Construction Insurance Scheme, so the cost should not be included in the Construction Contract.



## Do I have any allowances in my contract?

Are there any allowances for Prime Cost items and Provisional Sums items? If so, do you understand the meanings of the terms?

- Prime Cost items are for supply of materials only.
- Provisional Sum Item is for supply of materials and labour cost.

Do you know how the amounts that you will pay to your builder are calculated? If you are uncertain, ask your builder or an independent consultant to explain it to you.

### **Prime cost items**

Prime cost items are your selections of fixtures and fittings (e.g. appliances, taps and tiles) that are listed items in the contract but are not specifically identified or cost. This is because you or your builder could not determine the make, model or exact price of the item at the time the contract was signed.

Wherever possible, avoid prime cost items. Attempt to include the details of your selections in your contract, so that the building cost is final.

Alternatively, you could choose to purchase a number of your selection items directly. For example, purchasing all your kitchen appliances (oven, cooktop, range hood) in a package you can gain a discount and avoid the builder's margin, for a significant saving. Be aware though that you will be responsible to ensure the items are on site not to delay the project. Check that the builder's insurance will cover the items for damage and theft before handover.

If you choose to include Prime Cost Items, make sure you get a copy of the invoice that shows the cost of any Prime Cost item.

### **Provisional sum items**

A “*Provisional Sum*” Item is often confused with a “*Prime Cost*” item. A Provisional Sum is used when the builder cannot give an exact price for the proposed work at the time the contract is signed. It is quite common for excavation work to be included as a Provisional Sum item. Be aware that the costs could rise significantly, for example, should the builder list Scaffolding as a Provisional Sum and the project is delayed, the additional cost could run into thousands.

Your builder must make a reasonable allowance for the nature and location of the building site when estimating supply and delivery in the contract price. As an example, your builder must reasonably allow for transport costs if you are building on a rural property.

If reasonably possible, do not agree to provisional sum items as they can make your final cost higher.

**Rock Clause** - This is a standard clause, which is unavoidable unless the builder inserts a hefty 'Contingency Sum' in their costing's. If Rock is uncovered during excavation you will need to pay more money, so be prepared.





### **Do i own the copyright?**

If you do not own the Copyright to your design. You will be liable for a 'Loss of Profit' to the Copyright Owner. Should you decide to use the design and build with someone else? This includes Design Ideas; so getting a design redrawn will not protect you from legal action.

There are many Instances of Building Companies providing designs To Clients who then take those designs to another Builder and sign a contract for a lower price. This practice is illegal in Australia and can result in Legal action for Damages as well as your construction being halted.