



Tasmanian
Government

Building Act 2016

Director's Determination – Building Administration Fee

I, Andrew Timothy Goldsworthy, in my capacity as Acting Director of Building Control, and acting pursuant to section 20(1)(e) of the Building Act 2016 ("the Act") hereby make the following Determination.

Title	Building Administration Fee
Description	<p>This Determination specifies the administrative processes for the collection, receipt and forwarding of the Building Administration Fee to the Building Administration Fund.</p> <p>For the purposes of 297(1) of the Act a period of 7 days after completion of the work is the period specified in which a person is to inform the Director when the actual cost of the completed work is higher than estimated.</p>
Version	v 1.1 (July 2019)
Application	For the purposes of 20(3)(b) of the Act, this Determination applies from the date of its approval until its revocation
Approval date	16 July 2019
Commencement date	22 July 2019

Andrew Timothy Goldsworthy

Acting Director of Building Control

Consumer, Building and Occupational Services
Department of Justice

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Document Development History

Version	Application Date	Reason	Sections amended
1.1	22 July 2019	Updating of the BAF Return Certificate Updating of CBOS email address	Explanatory notes on page 5 inserted regarding changes to the Return Certificate CBOS email address amended on page 6
1.0	22 December 2016	Original release	N/A

Interpretation

Unless the contrary intention appears, an expression used in this Determination that is defined in the *Building Act 2016* or *Building Regulations 2016* has the same meaning;

“**Act**” means the *Building Act 2016*.

“**Building Administration Fee (BAF)**” means the fee payable in respect of work under Division 1 of Part 21 of the Act

“**GST**” means the Goods and Services Tax of the Commonwealth

“**Low Risk Work**,” “**Notifiable Work**” and “**Permit Work**”, mean the types of work as determined in the Director’s *Determination - Categories of Building and Demolition Work*, as amended from time to time.

“**Person**” responsible for payment of the BAF, means the owner or their agent.

When is a BAF payable?

(Reference section 296 *Building Act 2016*)

A BAF is payable for building or demolition work (including related plumbing work) costing \$20,000 or more, of the following types:

- In respect of Permit building work, or permit demolition work, at the time a Permit is granted in respect of the work;
- In respect of Notifiable building work, or notifiable demolition work, at the time a Certificate of Likely Compliance is issued in respect of the work;
- In respect of Low-Risk building or demolition work, within 7 business days after that work is completed.

Calculation of the BAF

The BAF is calculated at the rate of 0.1% of the cost of the building or demolition work. GST is not payable on the BAF itself.

1. The cost of the work is determined by the contract price supplied by the applicant (including GST) of the building work (including plumbing work) or demolition work, including the cost of labour and materials.
2. If there is no contract price, the applicant is to supply a statement by a building surveyor of the estimated cost of the building work (including plumbing work) or demolition work including the cost of labour and materials. An estimated cost is to be determined using current industry information of the cost of work and is to include GST.

The BAF will need be recalculated if the actual cost of the work varies between the time the fee is paid and the time the work is completed. See the section below on *Extra Building Administration Fee payable for increases in costs*.

Payment of a BAF to a Permit Authority

(Reference s.300 *Building Act 2016*)

The BAF is to be paid to the Permit Authority by the owner of the premises where the work is to be performed, or by their agent. If a building surveyor receives from their client a BAF payable in respect of Notifiable Work, the Building Surveyor must forward that fee to the relevant Permit Authority with a copy of the Certificate of Likely Compliance for the Notifiable Work. [Note that section 300(1) incorrectly references a copy of a “standard of work certificate”].

Specified amount of each BAF retained by Permit Authorities

A Permit Authority may retain an amount of \$6.00 for each BAF that is collected. This “handling fee” is to assist with covering the costs of council administration.

Monthly calculations using the BAF Return Certificate

Building Administration Fees paid in (for Building or Demolition Permits issued by the Permit Authority or notifications of Building or Demolition Work received by it) or refunded, are to be calculated monthly and recorded using the BAF Return Certificate which is provided by the Department of Justice.

The BAF Return Certificate is an Excel spreadsheet calculator that automatically determines the monthly balance to be paid to the Department of Justice and takes into account the BAF handling fees retained by the Permit Authority.

All the necessary calculations are embedded. It is however important to note the following:

- The total entered in box **B** must be equal to or less than the amount entered in box **A**. A warning appears if there is a discrepancy.
- The sum of all refunds for the previous month to be entered in box **G** refers to the total amount that has been paid by the applicants who are claiming refunds before any handling fees are deducted. The calculator will take care of the deductions and ensure the amounts are correct. It is up to the Permit Authorities (Councils) to retain the second \$6 handling fee from each refund.
- At the top of the calculator, there are some boxes that are used to personalise the form. The boxes marked Council, month and year each have drop-down lists which are activated if the mouse arrow is positioned at the right-hand end, held down and clicked on the black arrow that appears. Enter the date in the indicated format in the box marked *Issued on*:
- At the bottom of the calculator, enter the required information in the boxes provided.
- Refund handling fees are not calculated in the BAF Return Certificate as they do not affect the monthly balance paid to the Department of Justice, but they should nevertheless be identified in the council’s internal accounts.
- If a permit is granted in respect of a stage of work and no BAF fee was payable in respect of a previous stage of the work, the estimated cost of the work to be used to determine the amount of the BAF payable in respect of the permit is to include the estimated, or actual, cost of that previous stage of the work.

Note that the BAF Return Certificate was updated in July 2019 when version 1.3 was released for use. The main changes made are:

- Drop down menu of council names included;
- Item inserted after “A” to collect data on number of building orders that have been issued;
- Clarification of wording - that the work types for which BAF is payable includes plumbing work, if that is associated with building work;
- Updating of CBOS email address.

Refund of a BAF paid

(Reference section 302(1) *Building Act 2016*)

The Director of Building Control may refund an amount of a BAF already paid. Circumstances when this may occur are:

- If a permit issued in respect of the work is cancelled; or
- If before a Certificate of Completion is issued, the actual cost of the building work or demolition work was less than the original estimate.

The Director may ask for evidence supporting a refund claim.

- Refunds will be performed by the Permit Authority using funds from the current monthly return. Refunds are treated as a credit to the Permit Authority on the BAF Return Certificate and are deducted automatically from the total amount of Building Administration Fees due to be paid to Department of Justice for the current month.
- When making a refund, the Permit Authority is to deduct a further \$6.00 handling fee. Thus the amount to be refunded to the applicant is the original Building Administration Fee paid less \$12.00. Any refunds paid are entered in the BAF Return Certificate as the full Building Administration Fee amount (before any council fees have been deducted).

Forwarding of BAF Return Certificate to the Department of Justice

The completed BAF Return Certificate (as a PDF file) is to be emailed to the Department of Justice (CBOS) Records Section on the same day that the BAF funds are transferred. The address is cbos.info@justice.tas.gov.au

Forwarding of BAF funds and remittance advice to the Department of Justice

After the Permit Authority has retained the specified amount (\$6) of each fee, the balance of the fees collected is due and payable to the Department of Justice by the 20th of the month following the end of the month in which the BAF fees were collected. Any refunds claimed from the Department of Justice are those that were paid in the same month.

Payment is to be made by electronic funds transfer as follows:

Westpac Banking Corporation

BSB: 037001

Account: 267793

Account Name: Department of Justice Operating Account

A remittance advice is also to be emailed to Department of Justice Finance Branch on the day of transfer. The address is: finance@justice.tas.gov.au

The remittance advice is to include:

1. Name of the Council
2. Information that the funds are Building Administration Fees.
3. The month for which the Building Administration Fees have been collected.

Staged building work

(Reference section 298(3) *Building Act 2016*)

If a permit is granted in respect of a stage of work and no BAF was payable in respect of a previous stage of the work, then the estimated cost of the new stage on the same building is to include the actual or estimated cost of the previous stage of work.

Extra BAF payable for increases in costs

(Reference section 297 *Building Act 2016*)

If at completion of the building work the actual cost of the work is higher than the estimated or contracted price, the owner or agent must inform the Director of Building Control within the specified period after completing the work, of the actual cost of the completed work. That person is then liable to pay an additional amount to the Permit Authority. This applies even if the owner or agent had previously paid an amount of BAF in respect of the work.

For the purposes of 297(1) of the Act a period of 7 days after completion of the work is the period specified in which a person is to inform the Director when the actual cost of the completed work is higher than estimated.

A person who was not previously liable to pay the BAF for work, may become liable if the cost of that work on completion is equal to higher than \$20,000.

- The Director may calculate the extra amount payable and serve a notice on the owner or agent that an additional amount of the BAF is to be paid in respect of that work.
- The extra amount payable will be calculated by the difference between the estimated cost when the BAF was originally calculated and paid, and the actual cost at the time the work was completed, x 0.1%.

Further information may be requested from parties

(Reference section 299 *Building Act 2016*)

To accurately determine the amount of the BAF payable, the Permit Authority or building surveyor may seek further information about an estimated cost of the work from relevant parties (including those responsible for performing work).

Non-payment of a BAF – general provisions

- The responsible person for Permit Work in respect of which the BAF is payable must ensure that the work is not commenced before the BAF has been paid. The penalty is a fine not exceeding 100 penalty units. (Reference section 301 *Building Act 2016*)
- A BAF amount owed is a debt payable by the owner and can be recovered by the Director in a court. (Reference section 302 *Building Act 2016*)
- In respect of Notifiable Work, a Certificate of Completion may not be issued without prior payment of the BAF. (Reference sections 104(3)(b), or 127(3)(b) *Building Act 2016*)

Waiver of the BAF

Reference section 302 Building Act 2016)

The Director has a wide discretion to waive payment of the BAF, either individually or as a general application. Such a decision may require an application to be made to the Director with reasons. Special circumstances where this waiver might be applied may include natural disasters, as the BAF is another cost on owners re-building their home or business.

Record keeping

(Reference - Schedule I *Building Act 2016*) Information Registers, Item 3 (BAF Records)

A Permit Authority must keep, for at least 10 years, records that show the:

- amount of any BAF payable under the *Building Act 2016*.
- estimated cost of the building work in relation to which the BAF is payable.
- date BAF was paid to the Permit Authority.