

**HIA
Plain
English
Contract**

**Master
Builders
Association
BC4**

**Australian
Standards
AS 4902
2000 [D&C]**

**Office of
Fair Trading
Home Building
Contract**

**ABIC SW
SW-2008 H
NSW**

**Australian
Standards
AS 4300
1995 [D&C]**

**Australian
Standards
AS 2124
1992**

**ABIC MW-1
2003/2008**

**Australian
Standards
AS 4000
1997**

**Australian
Standards
AS 4905
2002**

**VERY
CONTRACTOR/
BUILDER
FRIENDLY**

**MILDLY
CONTRACTOR/
BUILDER
FRIENDLY**

NEUTRAL

**MILDLY
PROPRIETOR/
PRINCIPAL
FRIENDLY**

**VERY
PROPRIETOR/
PRINCIPAL
FRIENDLY**

What contract should I use?

Commonly owners corporations completing rectification or maintenance work will engage builders without giving proper consideration as to the contract which should be used for that work. Not all contracts are equal and strata managers should be aware that the contract being proposed for use by a consultant or builder may not be the most appropriate contract for the work.

For example, from the above diagram, it can be seen that some contracts are more builder friendly than others. Indeed, it will come as no surprise that the MBA and HIA contracts are drafted so as to favour their members.

Further, the contract selected should be the most suitable for the type of work being completed. For example, if a lift upgrade is being completed, an appropriate contract would be AS 4910 - 2000 for the supply of equipment with installation (rather than AS 4000 or a contract from the MBA suite of contracts). Further again, some contracts are more suitable for commercial building work rather than residential building work.

The same may be said for the engagement of consultants. If the contract works are significant (say \$1,000,000+), consideration should be given to using AS 4122-2010 rather than a short form consultancy agreement put forward by the consultant. In this regard, strata managers should also be aware of the difference between the project management and superintendence of work. These are two different tasks and the consultant assisting the strata manager should be engaged with clarity in this regard.

Here is a brief guide to the various contracts.

Standards Australia is a not for profit organisation which publishes and revises standard forms of construction contracts on the basis of advice from industry panels made up of a range of construction industry participants. Consequently, these contracts tend to be more balanced in their allocation of risk between the parties (rather than favour the builder or owner).

Australian Institute of Architects (AIA) and Master Builders Australia Ltd (MBA) jointly publish a suite of building contracts which are intended for use when an architect administers a project. These are known as the Australian Building Industry Contracts (ABIC). The ABIC series includes a major works contract (MW), a simple works contract (SW) for projects up to \$2 million, a basic works contract (BW) for values up to \$50,000 and an early works contract (EW) for preliminary works. These contracts tend to favour builders in their allocation of risk.

Office of Fair Trading contracts tend to be biased towards consumers as the Office of Fair Trading is an organisation charged with the protection of consumers. However, these contracts tend to be fairly simple and are not suited to larger or more complex projects.

The above is not, by any means, a comprehensive guide to the process of selecting contracts. It is only intended to be a brief introduction to some of the dangers. Further, it is not, and is not intended to be, legal advice.

If you have any questions in relation to the selection of contracts, please contact:

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