

BUILDERS AND OWNER / BUILDERS RESPONSIBILITIES UNDER NSW PLANNING LEGISLATION

NSW planning legislation sets out the approvals needed for building work and the stages of work that must be inspected and certified. It also places responsibilities on builders and developers - called 'principal contractors' - who carry out the overall coordination and control of the building work on the site. These responsibilities are set out below.

Before building can commence

You are responsible for ensuring the following activities have occurred before commencing any construction:

- Either a development consent (DA) and a construction certificate (CC) or a complying development certificate (CDC) must be issued. Development consent is issued by council or a consent authority; construction or complying development certificates are issued by council or accredited certifiers.
- A principal certifying authority (PCA) must be appointed by the landowner (a builder can only appoint a PCA if they own the land). The PCA checks the building work at set stages of construction to ensure it accords with the development consent/ complying development certificate and national building standards.
- **Remember:** the PCA is a public official whose first responsibility is to meet public safety and regulatory requirements.

You are responsible for other activities that must take place before work commences:

- You and the PCA must install and maintain a site sign on the development site (unless it involves internal building work not affecting external walls), and it is preferable that this is a joint sign. The sign must detail the contact information of the PCA and the principal contractor.
- Your Owner Builders permit or licence and insurance details must be made available to be checked by the PCA.
- You must ensure you have been given notice of required inspections for the building work. The landowner will inform you of this after they are notified of the requirements by the PCA.

During building

You are responsible for notifying the PCA, at least 48 hours in advance, of when the building work has reached or will reach the appropriate stage for required inspections to take place.

The PCA (or another certifying authority with the PCA's agreement) will carry out the critical stage inspections and other inspections. These inspections cannot be missed. You have a responsibility to ensure these inspections take place at the right time and that work does not commence to the next stages without these inspections taking place.

If an inspection is missed:

- The occupation certificate may not be issued at the end of the work, whether or not the work is otherwise satisfactory.
- You may not receive final payment under your contract.
- Disciplinary action can be taken against you if you have knowingly done any work before the PCA has carried out any required critical stage inspection or you have failed to give the required notification of an inspection.
- The council may issue a stop work order and order any problems to be fixed.

The following reasons are not considered satisfactory reasons for missing an inspection:

- The builder being unaware they are to call the PCA for an inspection .
- The builder giving insufficient notice to the PCA for an inspection.
- The PCA being on holidays.
- The builder having someone else other than the PCA carry out the inspection without the PCA's agreement.

The PCA will keep a record of any missed inspections, including the principal contractor's details.

How you can help the building and inspection process

You must be aware of the statutory conditions that you must follow during the building process:

- You must build according to the construction certificate plans and follow the conditions of the development consent, in particular conditions relating to sedimentation control, traffic management, asbestos removal and site remediation.
- You cannot make changes to the building design without checking with the PCA. The PCA will decide whether an application to change the development is needed.

You must work as best you can to help the building and inspection process:

- You should allow the relevant certifier onto the site.
- You should stay in touch with the PCA about the conditions of development consent that need to be satisfied as work occurs and let them know how construction is going. The PCA will check the conditions are being met at appropriate stages.
- You should report complaints from neighbours or the council to the PCA and take steps to rectify any problems. Similarly, report any problems that arise on the site which mean that the work is not occurring as required by the conditions.

The PCA can issue a notice of intent to issue an order under the legislation if the development is not occurring as approved. The council will then decide whether to issue an order, which may include a stop work order. Council can also issue on-the-spot fines.

End of building work

You must ensure any other relevant conditions of the development consent are satisfied.

The PCA will issue the occupation certificate (interim and/or final) as the work is completed.

More information

For more information, contact Fairfield City Council ph: 9725-0222 or email: mail@fairfieldcity.nsw.gov.au.