



INFORMATION SHEET

Workplace Services

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NSW - Control of a Building Site

If you are a principal contractor (builder) in control of a building site you are responsible for the safety of everyone who comes onto the site. This includes your contractors, your employees, your client and even strangers. This information sheet explains the importance of keeping control over your building site.

Why do you need to keep control of the site?

A building site can be a dangerous place for people who are not aware of the risks that exist on your site, so you do not want people on site unnecessarily. Aside from OH&S reasons, having other people on site may interfere with your ability to carry out the works and may affect works that you have already carried out. You do not want to be responsible for defective work or damage caused by other contractors.

How can I make sure that I have control of the site?

If you want to have full control of the site it is essential to have a clause in your contract that gives you the right to exclusive possession of the site to carry out the building works. The main HIA contracts have a clause that provides for this.

What does the HIA contract say about control of the site?

The site possession and access clause contained in the HIA contract not only gives you exclusive possession of the site, it goes further to say that the owner or its agents must not hinder:

- (i) your access to or possession of the site; or
- (ii) the progress of the building works.

It also states that the owner must not:

- (i) make inquiry of;
- (ii) issue directions to; or
- (iii) give instructions to,

your workers or subcontractors. Communication must only be with your nominated person.

This clause is aimed at reducing disputes. Disputes are often created by owners telling subcontractors to do work or agreeing to a variation which the builder does not know about.

HIA contracts also provide that the owner may only have access to the building works at reasonable times and after giving reasonable prior notice to you, for the purpose of inspecting the progress of the works. If the owner exercises this right you should verify who intends to access the site and the purpose of the visit.

Arrange a reasonable time for them to access the site and it would also be a good idea to give them an induction explaining the risks that are present on the site and appropriate methods of control. That way the person entering the site is aware of the risks and is less likely to be at risk of harm.

How do I enforce my right to control the site if I use the HIA contract?

If the owner breaches the clause of the HIA contract, you may issue a notice of default and/or a notice of suspension. Both notices should identify the breach and outline the consequences that result if the owner fails to address the breach within the relevant time-frame. If you issue a notice of default or suspension, you need to do this strictly in accordance with the contract.

Please contact your HIA Workplace Advisor for assistance before enforcing your rights under the contract.

DISCLAIMER - The above is intended to provide general information in summary form. The contents do not constitute specific advice and should not be relied upon as such. Formal specific advice should be sought by members with respect to particular matters before taking action.

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