

Fact Sheet

Information for contractors: new powers for Building Commission NSW to inspect residential building work

Building Commission NSW has powers under the *Home Building Act 1989* to enter residential construction sites and inspect for compliance with that Act. If breaches are identified we can issue rectification orders, stop work orders and on-the-spot penalties. Serious conduct issues can also result in disciplinary action.

Key information

- We will audit class 1 buildings before and after they are completed because we want to raise standards and build public confidence in the quality of NSW's residential building industry.
- We will choose projects to audit based on a risk analysis and random sampling. Risk factors we will focus on include the builder's complaints history, historical conduct, safety performance, and whether there are potential risks related to key practitioners on a project (e.g. contractors, certifiers, engineers, consultants).
- Inspectors can issue Stop Work Orders, Rectification Orders and on-the-spot penalties.

On-site audit

- Inspections will focus on compliance with the Building Code of Australia and relevant Australian Standards related to the key building elements (structure, building enclosure, waterproofing, fire safety, services).
- Further information may be required after an inspection so we can determine whether work is defective or has the potential to cause other adverse outcomes.
- While on-site we will also look for compliance with licensing, signage and supervision requirements.
- Where we identify poor practices or defective work we may issue Orders and/or refer contractors to learning modules on the [Construct NSW digital platform](#). Some breaches can also result in penalty infringement notices or disciplinary action.

Rectification Orders

- Contractors will be provided with notice of our intention to issue a Rectification Order. They will be given a reasonable time to review the Order and make submissions before it is finalised.
- A Rectification Order will specify what issues require rectification and when they must be completed by.
- Rectification work will need to be carried out in accordance with relevant conditions such as NCC or BCA requirements, Australian Standards and manufacturer specifications.

Stop Work Orders

- A Stop Work Order can be issued where we form the opinion that the work is likely to cause significant harm or loss to the public or occupiers (including potential occupiers) of a building, or significant damage to property.
- It can be issued on the day of the audit or at later date.

Appeals of Orders

- Orders can be discussed with the officer who issued it. You also have the ability to lodge an appeal to the Tribunal within 30 days.

Outcomes for non-compliance

- It is a condition of every contractor licence holder that they must comply with the requirements of an Order.
- A maximum penalty of \$330,000 applies for non-compliance. In addition, a penalty of up to \$33,000 per day can be applied for ongoing offences.

More information

- [Building Commission NSW](#)
- <https://www.nsw.gov.au/housing-and-construction/building-commission/our-audit-strategy/how-we-audit-class-1-building-constructions>