

Don't get caught being the Principal Contractor for works over \$250,000

In respect of work over \$250,000, there is going to be a principal contractor for that work. As the landowner, you don't want to be that person because of all the obligations that flow as explained below.

FAQ 1 – When would I be a Principal Contractor

1. First, you must be a PCBU. Take our quiz to see whether you are a PCBU: [Bannermans PCBU Quiz](#)
2. Second, the cost of the work must exceed \$250,000.

If you are a PCBU and the cost of the work exceeds \$250,000, unless you delegate the responsibility, you are the **Principal Contractor**.

FAQ 2 – So, what if we don't comply with Principal Contractor/PCBU obligations

You will be exposed to prosecution and penalties.

In *SafeWork NSW v The Owners – Strata Plan No 93899* [2024] NSWDC 277, an owners corporation was fined \$225,000 for failure to ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person. We examine this decision in our article [Important Work Health & Safety Case Part 2: Owners Corporation fined \\$225,000.00 as a PCBU](#).

In *SafeWork NSW v Coplex Construction Pty Ltd* [2023] NSWDC 165 the principal contractor was fined \$405,000.

In *SafeWork NSW v Apex Building Systems Pty Ltd* [2023] NSWDC 14 the principal contractor was fined \$180,000.

FAQ 3 – What should we do

Make sure any contract you have with a builder for works over \$250,000 is in writing and delegate the responsibility of principal contractor to the builder for WHS purposes.

FAQ 4 – What if we haven't dealt with this and entered into such a contract as PCBU

You will either need to comply with your WHS obligations and should enter into another contract to delegate principal contractor duties.

FAQ 5 - What does a PCBU need to do

A PCBU must consult, cooperate and coordinate on WHS matters with other duty holders when working as part of a contractual chain.

A PCBU must ensure, so far as is reasonably practicable, the health and safety of workers engaged, or caused to be engaged by the person, and workers whose activities in carrying out work are influenced or directed by the person, while the workers are at work in the business or undertaking.

FAQ 6 - What does a Principal Contractor need to do

Among other things:

1. The principal contractor for a construction project must ensure that signs are installed, that—
 - (a) show the principal contractor's name and telephone contact numbers (including an after hours telephone number), and
 - (b) show the location of the site office for the project, if any, and
 - (c) are clearly visible from outside the workplace, or the work area of the workplace, where the construction project is being undertaken.
2. The principal contractor for a construction project must prepare a written WHS management plan for the workplace before work on the project commences.
3. The principal contractor for a construction project must ensure, so far as is reasonably practicable, that each person who is to carry out construction work in connection with the project is, before commencing work, made aware of—
 - (a) the content of the WHS management plan for the workplace, and
 - (b) the person's right to inspect the WHS management plan.
4. The principal contractor for a construction project must review and as necessary revise the WHS management plan to ensure that it remains up to date.
5. The principal contractor for a construction project must ensure, so far as is reasonably practicable, that each person carrying out construction work in connection with the project is made aware of any revision to the WHS management plan.
6. The principal contractor for a construction project must take all reasonable steps to obtain a copy of the safe work method statement relating to high-risk construction work before the high-risk construction work commences.
7. The principal contractor for a construction project must manage risks to health and safety associated with the following—
 - (a) the storage, movement and disposal of construction materials and waste at the workplace,
 - (b) the storage at the workplace of plant that is not in use,
 - (c) traffic in the vicinity of the workplace that may be affected by construction work carried out in connection with the construction project,
 - (d) essential services at the workplace.

FAQ 7 – What about high risk construction work

A PCBU that carries out high risk construction work owes additional WHS duties, such as ensuring that a safe work method statement for the proposed work is prepared or has been prepared.

FAQ 8 - What about allowing a builder to remediate defects valued over \$250,000

If you aren't paying anything for the repairs, we'd always recommend first delegating the responsibility of principal contractor and management or control of the workplace via contract before allowing a builder to remediate defects valued over \$250,000, otherwise you might be the principal contractor for those repairs.

This is one reason why we say in our article [*Do you let the builders come back to fix their own defects? It's all about acting reasonably*](#) that an Owners Corporation is entitled to require as a condition of the builder returning to rectify its defects that the Builder (a) sign a written agreement and provide necessary insurances.

It is advisable to seek legal advice before entering into any contract for works exceeding \$250,000.

Did you know that balustrade replacements are high risk construction work which create additional obligations on PCBUs and Principal Contractors? Speak to us about how we can assist you.

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