

# Builder's Guide to an Effective Management of Variations under the HIA NSW Residential Building Contract

## Introduction

Navigating through the complexities of a construction contract can be daunting, especially when it comes to managing variations. This guide is designed to help builders understand and effectively manage variations under the Housing Industry Association (HIA) NSW Residential Building Contract. We'll delve into the specifics of Clause 18, explore the implications of the [Home Building Act 1989](#) (NSW), and provide practical tips to ensure a smooth building process. Whether you're a seasoned builder or new to the industry, this guide will equip you with the knowledge to handle contract variations with confidence.

### Understanding Contract Variations

[Contract variations](#), a common occurrence in construction projects, refer to any changes made to the agreed scope of work after the contract has been signed. These changes could involve alterations to design, materials, or the manner of carrying out the work, and must be agreed upon by both the builder and the homeowner.

### Importance of Variations in Construction Contracts

[Variations](#) are crucial in construction contracts as they allow for flexibility in the face of unforeseen circumstances or changes in the client's requirements. Properly managed, they ensure the project adapts to changes without compromising on quality or causing legal disputes, thus maintaining a positive builder-homeowner relationship.

Related Content: [Risks and Benefits for Builders and Owners under Variations Clause](#)

## Key Aspects of Clause 18 in the HIA NSW Residential Building Contract

Here are the key aspects of Clause 18 of the HIA NSW Residential Building Contract :

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Subclause	Description	Explanation
18.1	Written and Signed Variations	<p>Any variation must be in writing and signed by both the builder and the homeowner. This formalises the change and ensures both parties are in agreement.</p> <p>This is a crucial step as it provides a clear record of what has been agreed upon, reducing the risk of misunderstandings or disputes later on. It also ensures that both parties are fully aware of the changes being made, the reasons for these changes, and any potential impact on the cost and timeline of the project.</p>
18.2	Requesting a Variation	<p>Either the builder or the homeowner can request a variation. If the homeowner requests for a variation, the builder must respond to the homeowner's request as soon as reasonably possible.</p>
18.3	Builder's Response	<p>The builder's response can either be an offer to carry out the variation, detailing the work required, the price, and any extension of time, or a refusal to carry out the variation without needing to provide a reason.</p>

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18.4	Acceptance of the Variation	<p>If the homeowner does not accept the builder's offer within five working days, the offer is considered withdrawn.</p> <p>This could potentially delay the project as the builder may need to reassess the work plan.</p>
18.5 & 18.6	Pricing of Variations	<p>If the price of a variation is not agreed upon before it's carried out, the price includes (a) the deduction of the reasonable cost of all deleted items in the scope of work and (b) the addition of the total cost for all extra work plus the builder's margin.</p> <p>The price is due at the next progress payment unless otherwise agreed.</p>
18.7	Consent to Variations	<p>The homeowner must not unreasonably withhold consent to any variation required for the building works to comply with the law or a requirement of any statutory or other authority. Otherwise, this may lead to legal complications and further project delays.</p>

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18.8	Natural Material Variations	The homeowner acknowledges that natural materials can vary in colour and grain. The builder will try to match any samples but is not liable for differences, and such differences are not considered a variation.
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Understanding these aspects is crucial for effective management of variations in the HIA NSW Residential Building Contract.

## How the Home Building Act 1989 (NSW) Affects Variations

The Home Building Act 1989 (NSW) plays a significant role in how variations are managed in the HIA NSW Residential Building Contract. According to Schedule 2 Part 1 Item 1(2) of the Act, any agreement to vary the contract, or to vary the plans and specifications for work to be done under the contract, must be in writing and signed by or on behalf of each party to the contract.

This requirement aligns with Clause 18.1 of the HIA NSW Residential Building Contract, reinforcing the importance of having written and signed variations. This legal requirement ensures that all parties are on the same page and that there is a clear record of the agreed changes. It also provides a level of **protection for both parties**, ensuring that any changes to the contract are mutually agreed upon and legally binding.

### The Consequences of Not Following the Legal Requirements

Failing to adhere to the legal requirements for variations can have serious consequences. If variations aren't documented and signed as required by the Home Building Act 1989 (NSW) and the HIA NSW Residential Building Contract, they may not be legally enforceable. This could lead to **disputes** over payment or the scope of work, potentially resulting in costly legal proceedings. Therefore, it's crucial for builders to ensure all variations are properly documented and signed, protecting both their interests and those of the homeowner.

### Practical Tips for Managing Variations Effectively

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Effectively [managing variations](#) is key to maintaining a smooth building process and a positive relationship with the homeowner. Here are some practical tips:

1. **Clear Communication:** Always maintain open and clear communication with the homeowner. Discuss potential variations as soon as they arise and ensure both parties understand the implications.
2. **Document Everything:** Ensure all variations are documented in writing and signed by both parties. This includes the details of the variation, the cost, and any changes to the timeline.
3. **Understand the Contract and Legal Requirements:** Familiarise yourself with the HIA NSW Residential Building Contract and the Home Building Act 1989 (NSW). Understand the requirements for variations and ensure you comply.
4. **Manage Expectations:** Be clear about what a variation might mean in [terms of cost](#) and timeline. Ensure the homeowner understands and agrees to these changes.
5. **Be Proactive:** Anticipate potential variations and discuss these with the homeowner in advance. This can help minimise surprises and disputes down the line.
6. **Seek Legal Advice:** If you're unsure about a variation or its potential implications, don't hesitate to [seek legal advice](#). A construction lawyer can provide valuable guidance and help you navigate complex situations.

By following these tips, builders can effectively manage variations, ensuring a smoother building process and a more positive experience for both parties.

## Conclusion

Navigating through variations in the HIA NSW Residential Building Contract can be complex, but with a clear understanding of Clause 18 and the Home Building Act 1989 (NSW), along with effective communication and proper documentation, builders can manage variations effectively and maintain a positive relationship with homeowners.

If you're a builder seeking professional advice on managing variations or any other aspect of construction law, don't hesitate to reach out. As a solicitor and construction lawyer with over 10 years of experience, I can provide expert advice and representation to help you navigate through your contractual and legal rights. Contact me today to ensure your contracts reflect your intentions and safeguard your interests.

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