



## In this issue

GREEN PAPER  
FEEDBACK

REMINDER - NEW  
DISCIPLINARY PENALTY  
GUIDELINES

PRACTICE ADVICE

## Green Paper feedback summary

The NSW Governments Feedback Summary Report for the Green Paper A New Planning System for NSW, shows that submissions overwhelmingly support efforts that will make it easier for communities to participate and engage in a new State-wide planning system.

- [View the report.](#)

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## Reminder

### New Disciplinary Penalty Guidelines

As advised just before Christmas last year, the Boards review of the way it applies its disciplinary powers under the Building Professionals Act has led to the development of new [Disciplinary Penalty Guidelines](#).

The new Guidelines will ensure consistency in the application of penalties for findings of "unsatisfactory professional conduct" or "professional misconduct" under the Act.

The new Guidelines are now active and will be taken into account by the Boards Disciplinary Committee when determining appropriate penalties.

The Board will continue to support all accredited certifiers to perform their duties as public officers, to keep up to date with legislation and to enhance their professional skills through professional development programs.

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# Practice Advice

## NCC 2013 Seminars

The Australian Building Codes Board will be conducting information seminars in Sydney and Canberra on the 2013 National Construction Code (NCC).

Information seminars will be held at the National Convention Centre in Canberra on 19 February Australian National Maritime Museum in Sydney on 26 and 27 March.

The half day seminars will inform building and plumbing professionals of amendments to the NCCs Building Code of Australia and Plumbing Code of Australia taking effect on 1 May.

The seminars will also feature a presentation by Standards Australia on changes to Australian Standards.

- [Find out more](#)

## *Boarding Houses Act 2012*

The Department of Premier and Cabinet (Local Government) has issued a Circular to inform councils of new responsibilities under the [Boarding Houses Act 2012](#).

- [View the Circular](#)

## Fire safety in residential aged care facilities

New laws took effect on 1 January 2013 that require automatic fire sprinklers to be installed in residential aged care facilities in NSW.

The new laws include:

- [the Environmental Planning and Assessment \(Fire Sprinkler Systems\) Regulation 2012](#)
  - [State Environmental Planning Policy \(SEPP\) Amendment \(Fire Sprinkler Systems\) 2012](#)
  - the [Fire Sprinkler Standard](#).
- 
- [Find out more](#)

## Window barriers - new requirements in 2013 NCC

In an effort to reduce the risk of young children falling from windows, the ABCB has announced its decision to include requirements for window barriers

for openable windows in the National Construction Code 2013. The requirements mean window barriers are required for openable windows in early childhood centres and bedrooms in residential buildings where the floor beneath the window is more than two metres above the surface beneath.

The NCC changes will apply to new buildings and require the window to be fitted either with a device to restrict the window opening, or a suitable a screen, so a 125mm sphere cannot pass through. The device of screen can have a child resistant release mechanism (such as a key lock) that can enable the device or screen to be removed, unlocked or overridden (for example, so a window can be cleaned).

The ABCB will provide further information through 2013 find out more by visiting [www.abcb.gov.au](http://www.abcb.gov.au)

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State of New South Wales through the Building Professionals Board.

Building Professionals Board  
PO Box 3720  
Parramatta NSW 2124

Tel: (02) 9873 8537  
Fax: (02) 9873 8517  
Email: [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au)

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## In this issue

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PRACTICE ADVICE

WORK AT THE BOARD

## Advisory Reviews

### Help us shape our support information

The Board has developed an online survey that certifiers can fill out following an Advisory Review.

The aim is to get feedback from you on the areas within the certification system that you want to know more about. This feedback will inform our efforts to provide more effective support materials and training.

Those of you who will be reviewing in the future will receive a link to the survey when the Advisory Review is sent to you. For those of you who have already been reviewed, please take a few minutes to fill in the survey [here](#).

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## Council accredited certifiers

### Reminder: transitional arrangements

Don't forget to nominate yourself for transitional arrangements for qualifications recognised by the Building Professionals Board.

From 1 March 2013, the current council accreditation provisions cease to operate for new applicants and for applicants seeking to upgrade their category of accreditation. This will not affect the re-accreditation of existing council accredited certifiers who continue to be accredited in their current category of accreditation, provided they renew their accreditation annually.

To ensure council certifiers who are currently enrolled, or are about to enrol, in courses that would have allowed accreditation at a higher level under the current council accreditation requirements are not disadvantaged by this, the Board has amended its Accreditation Scheme.

The amendment permits accreditation under the current scheme after 1 March 2013 for those council accredited certifiers who enrol in a qualification recognised by the Board before 1 March 2013.

To be eligible council accredited certifiers must:

- currently be enrolled or enrol in a course before 1 March 2013 that leads to one of the qualifications listed in Schedule 3 Part 2 of the Accreditation Scheme
- apply to the Board, prior to 1 March 2013, to be part of the transitional arrangements and have it approved by the Board
- complete an approved course and obtain the qualification within the normal period for completing the course, as defined by the course provider, either on a fulltime or part time basis.

Council accredited certifiers must nominate their intention to be included in the transitional arrangements by completing the [nomination form](#) as soon as possible and sending it to [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au)

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## Practice advice

### The Codes SEPP and Roads Act 1993

The Board has been asked to clarify some details under the *State Environmental Planning Policy (Exempt and Complying Developments Codes) 2008* (Codes SEPP), particularly clause 1.18(1)(e) of the Codes SEPP and how it relates to Part 2, Division 1 of the *Roads Act 1993*.

Clause 1.18(1)(e) Codes SEPP provides:

#### **1.18 General requirements for complying development for this Policy**

*(1) To be complying development for the purposes of this Policy, the development must:*

*(e) before the complying development certificate is issued, have written consent from the relevant roads authority, if required by the Roads Act 1993:*

*(i) for each opening of a public road required by the development, and*

*(ii) to operate or store machinery, materials or waste required by the development on a road or footpath reserve*

Part 2, Division 1 of the Roads Act 1993 is headed "Opening of Public Roads". This Division deals with the ways that public roads are created, for example, by the registration of a plan of subdivision that contains a statement of intention to dedicate specified land as a public road. Despite the use of the words "Opening of Public Roads" in the heading of Part 2, Division 1 Roads Act, it is the Board's view - having regard to discussions with the Department of Planning and Infrastructure's Codes SEPP team - that clause 1.18(1)(e)(i) Codes SEPP does not relate to this part of the Roads Act.

As the term "*opening of a public road*" is not defined in the Codes SEPP or in the Standard Instrument, its reference in the Codes SEPP should infer what is meant by the term's ordinary grammatical meaning, within the relevant context.

While "opening" has a variety of meanings in ordinary usage, the most appropriate meaning, as it reads within the Codes SEPP is 'the act of making a hole or aperture (in a road)'.

This interpretation is reinforced by:

- clause 1.18(1)(e)(ii) referring to various types of obstructions on a road or footpath reserve that would constitute a hazard similar to those if there was an opening (that is, a hole) in a road
- the use of the term "*required by the development*" in the clause none of the types of complying development under the Codes SEPP (ie, the carrying out of certain building work, strata subdivision and demolition work) "require" that a public road be opened (or 'created', to use a more apt description of the effect of Part 2, Division 1 Roads Act)
- the parts of the Codes SEPP that deal with the construction of new buildings that already require the development to have lawful access to a road - if Clause 1.18(1)(e)(i) required there to be a public road opened in terms of Part 2, Division 1 Roads Act, it would be redundant to include these development standards in the Codes SEPP
- there is no reference in Part 2, Division 1 Roads Act to any road authority having a consent role with respect to the opening of a road.

The Board considers that clause 1.18(1)(e)(i) of the Codes SEPP is a requirement for consent to be obtained under section 138 of the Roads Act. That section prohibits a range of activities to be carried out on, in or over a public road without the consent of the appropriate roads authority. Roads authority is defined in section 7 of the Roads Act. Examples include Roads and Maritime Services in respect of freeways and local councils for local roads.

### [New section 109L notice](#)

The Board has developed a section 109L notice to assist an accredited

certifier, appointed as a PCA for a development, who becomes aware of issues with the way that the work is progressing that either breaches the conditions of development consent, or is inconsistent with the plans, causing a nuisance for neighbours or threatens property, among other things.

Under section 121B EP&A Act a consent authority (usually the council) may issue an order specified in that section requiring a person to do, or to stop doing, certain things. An accredited certifier cannot issue such an order.

To ensure a certifier can take some action to bring about compliance where persuasion alone is not sufficient, section 109L of the EP&A Act allows them to issue a notice that requires the issue to be addressed within a specified time or an order under section 121B will be issued (by the consent authority).

The Notice and supporting practice advice is intended to assist certifiers, councils and the recipients of the notice, to understand the process and what each party is required to do.

- [View the notice](#)
- [View the practice advice](#)

### New BASIX website

The Building Sustainability Index (BASIX) website has been given a makeover. The changes reflect user feedback and include a more modern design and improved navigation so its easier to find information and links.

- [Visit the website](#)

### Energy efficient construction workshops

The Construction and Property Services Industry Skills Council (CPSISC) is running free practical workshops in March 2013 on understanding:

- what the energy efficiency opportunities are in the built environment
- who can support energy efficiency
- the ways to put these new skills into practice on the job.

[Find out more](#)

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## Working at the Board

### New Senior Policy and Communications Officer position

The Board is looking for a new Senior Policy and Communications Officer - all details can be found [online](#) and applications are due this weekend.



## In this issue

COUNCIL ACCREDITED  
CERTIFIERS

PRACTICE ADVICE

PLANNING SYSTEM  
REVIEW

## Council accredited certifiers Transitional arrangements - one week to go!

We have over 45 building certifiers in the transitional pool for qualifications recognised by the Board dont forget to nominate yourself as there is not much time left before nominations close.

From 1 March 2013, the current council accreditation provisions cease to operate for new applicants and for applicants seeking to upgrade their category of accreditation. This will not affect the re-accreditation of existing council accredited certifiers who continue to be accredited in their current category of accreditation, provided they renew their accreditation annually.

To ensure council certifiers who are currently enrolled, or are about to enrol, in courses that would have allowed accreditation at a higher level under the current council accreditation requirements are not disadvantaged by this, the Board has amended its Accreditation Scheme.

The amendment permits accreditation under the current scheme after 1 March 2013 for those council accredited certifiers who enrol in a qualification recognised by the Board before 1 March 2013.

To be eligible council accredited certifiers must:

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- complete an approved course and obtain the qualification within the normal period for completing the course, as defined by the course provider, either on a fulltime or part time basis.

Council accredited certifiers must nominate their intention to be included in the transitional arrangements by completing the [nomination form](#) and sending it to [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au) as soon as possible.

### Applying for accreditation from 1 March 2013

All new applications for accreditation in categories A1, A2, A3 and A4 received by the Board from 1 March 2013 will need to satisfy a single set of requirements under the Boards Accreditation Scheme regardless of whether the applicant intends to work in a council or as a private certifier.

The only exception will be those applicants who have been approved in the transitional arrangements. Council officers who are not currently accredited, who are currently accredited and wish to apply for a higher category of accreditation, or have conditions removed from their accreditation will be required to:

- complete the Application for accreditation [Form 1](#)
- satisfy the core performance criteria by successfully completing the University of Technology Sydney Short Course or passing the Accreditation Exam
- if applying for Categories A1, A2, and A3, satisfy the specialty performance criteria by obtaining a qualification recognised by the Board in Schedule 3 Part 2 of the Boards Accreditation Scheme or by providing evidence from the provider of one of the specified qualifications that the applicant hold a qualification that is equivalent to the specified qualification issued by that provider
- pay the required application fee.

### Council accredited certifiers can only carry out work on behalf of a council

The Board has received several enquiries from existing council accredited certifiers who have indicated that they wish to carry out work as private certifiers after 1 March 2013.

Council accredited certifiers need to be aware that a condition on their certificate of accreditation restricts them to carrying out work only on behalf of a council. They are not able to carry out work as a private accredited certifier unless they have also obtained private accreditation before 1 March 2013 or accreditation under the new single system of accreditation from 1 March 2013.

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## Practice advice

### Conflicts of interest - helping the in-laws

The Board has recently been asked whether an accredited certifier can issue a Part 4A certificate or complying development certificate (CDC) to his/her parent/s in law.

Section 66(1)(c) of the BP Act 2005 prohibits accredited certifiers from issuing a Part 4A certificate or CDC in relation to any aspect of any development if the certifier is the applicant for the certificate or related to the applicant for the certificate. Section 68(e) of the Act defines an accredited certifier as being related to an applicant if the certifier is a spouse, de facto partner (same or opposite sex), sibling, parent or child of the applicant.

It is the Board's view that this definition does not cover parents in-law. There is therefore no conflict of interest under the BP Act if an accredited certifier issues a Part 4A certificate or CDC to his or her parent/s in-law.

### Suspending ceilings - clarification of advice

In the BP Bulletin released just before Christmas, the Board provided advice regarding safety issues associated with suspended ceilings. The article contained advice that evidence of the adequacy of a suspended ceiling and its support may be in the form of a certificate from a professional structural engineer.

We wish to clarify that primary responsibility for the correct installation of a suspended ceiling rests with the principal contractor.

Certifying authorities should apply a risk-based approach to the assessment of suspended ceiling construction, consistent with the approach taken to all building elements that may potentially be defective.

In the case of suspended ceilings, potential defects may not be readily detectable in the absence of intensive supervision or testing of the work. The provision of certification from a professional structural engineer, if based on a single visual inspection of the work, may not add significant value to the certification process. The cost of such certification may outweigh the benefit, particularly when the risk of failure is considered low in terms of the scale and design of the work.

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## NSW Planning System Review

Watch this space!

As many of you know, the review of the NSW Planning System commenced in July 2011.

The review process is approaching another milestone public and industry feedback is soon to be sought on a new planning system for NSW through the exhibition of a White Paper.

We will release a special BP Bulletin when the White Paper is released; you can also keep up to date on the process by visiting the Department of Planning and Infrastructures [website](#).

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Building Professionals Board  
PO Box 3720  
Parramatta NSW 2124

Tel: (02) 9873 8537  
Fax: (02) 9873 8517  
Email: [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au)

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## In this issue

NEW TEMPLATES

PRACTICE ADVICE

PREMISES STANDARDS

EHC EoI

EVENT REMINDER

## New templates

### Written contracts

Amendments to the *Building Professionals Act 2005* and Building Professionals Regulation 2007 (BP Regulation) [that commenced on 1 March 2013](#) introduced a requirement for certifying authorities to have a written contract before undertaking certification for a person.

The Board has prepared three template contracts certifying authorities can use or adapt to ensure their written agreements satisfy the new requirements.

- contract for individual certifiers: [\[Word\]](#) [\[PDF\]](#)
- contract for employer councils [\[Word\]](#) [\[PDF\]](#)
- contract for other employers [\[Word\]](#) [\[PDF\]](#)

Annex only the relevant attachment(s) in the templates that relate to the type of certification work to be undertaken, for example determining an application for a construction certificate and/or undertaking the functions of principal certifying authority.

An attachment for determining an application for a strata certificate, as well as an information brochure containing the statutory obligations of accredited certifiers that will need to be attached to the contract under clause 19A(5) of the BP Regulation, are still under development and will be distributed when available.

Certifying authorities can include the information in the template contracts in their existing written agreements, but the agreements cannot be inconsistent with the requirements of the BP Regulation.

While these templates can be used for any class of building, the Board is preparing an additional version of the contract specifically for developments that involve a Class 1 or Class 10 building. This will be published on the Board's website soon.

## Further Q&As

The Board has also released further Q&A on the requirements for written contracts.

- [View the new Q&As](#)
- 

## Practice advice

### Compliance with AS3959-2009 Construction of buildings in bush fire prone areas

The NSW Rural Fire Service (RFS) has been approached by applicants and certifiers seeking compliance advice on products under Australian Standard AS3959-2009 *Construction of buildings in bush fire prone areas*.

The RFS does not provide a list of complying products or recommend individual company products and/or their compliance with AS3959-2009.

The Building Code of Australia (BCA) requires certain buildings to comply with AS3959-2009. Developers must provide evidence to the certifying authority or principal certifying authority (PCA) that the use of a material, form of construction or design meets the requirements of AS3959-2009.

Subject to A2.3 and A2.4 (Volume 1) and 1.2.3 and 1.2.4 (Volume 2), clauses A2.2 (Volume 1) and 1.2.2 (Volume 2) of the BCA list suitable methods to document evidence of suitability as follows:

- A report issued by a Registered Testing Authority showing that the material or form of construction has been submitted to the tests listed in the report and setting out the results of those tests and any other relevant information that demonstrates its suitability for use in the building.
- A current Certificate of Conformity or a current Certificate of Accreditation.
- A certificate from a professional engineer or other appropriately qualified person that:
  - certifies that a material, design or form of construction complies with the requirements of the BCA
  - sets out the basis on which it is given and the extent to which relevant specifications, rules, codes of practice or other publications have been relied upon.

- A current certificate issued by a product certification body that has been accredited by the Joint Accreditation System of Australia and New Zealand (JAS-ANZ).
- Any other form of documentary evidence that correctly describes the properties and performance of the material. This may include a current Product Listing Data Sheet and listing entry in the Register of Fire Protection Equipment, as issued by CSIRO-MIT under its ActivFire Scheme.

A copy of documentary evidence submitted must be a complete copy of the original report or document.

The Board recommends developers discuss with the PCA the compliance of a product prior to installation.

The Fire Protection Association Australias website ([www.fpa.com.au](http://www.fpa.com.au)) provides a list of certified bush fire planning and design consultants who may be able to assist with product compliance.

### Keeping records

Dont forget your responsibilities for keeping records particularly in cases when a certifier leaves the employment of a company, or if a company closes down.

Clause 8 of the Building Professionals Regulation 2007 requires individual accredited certifiers to have copies of the documents listed in the clause kept at their business premises, or in another secure place, at all times for 10 years after the record was created. Likewise, clause 8A requires the same documents that are obtained or created by an accredited body corporate, or an accredited employee of an accredited body corporate, to be kept by the body corporate.

In recent investigations, the Board has found some certifiers do not have an arrangement in place that ensures they have their own records of documents they created but which are owned by or are in the possession of their former employer company. If the company ceases to operate, access to individual files may no longer be available and certifiers who previously worked for the company may be in breach of their statutory obligations. The Board considers this to be a serious matter as access to records is often required for investigation and audit purposes.

Accredited certifiers should ensure they have arrangements in place to maintain their own records. Company directors are responsible for keeping records for accredited bodies corporate.

The Board will look to take disciplinary action against certifiers who do not keep records of their work in accordance with legislated requirements.

## New Model Code Framework

The Department of Premier and Cabinet (Division of Local Government) has released a Circular relating to the new Model Code of Conduct Framework that commenced on 1 March.

- [Read the circular.](#)
- 

## Premises Standards

### Revised Guideline

The Australian Human Rights Commission has now released the final update of the Guideline on the Application of the Premises Standards.

- [View the Guideline](#)

The Commission received over 180 comments from building professionals, advocates, government agencies and associations while developing the update.

The Commission has also released new Advisory Notes on streetscape, public outdoor areas, fixtures, fittings and furniture that replace the Advisory Notes on Access to Premises first issued by the Commission in 1997.

- [View the Advisory Notes](#) (look under Other Commission resources).
- 

## Electronic Housing Code

### Call for Expressions of Interest

The Department of Planning & Infrastructure is currently looking for additional private accredited certifiers to join the Electronic Housing Code (EHC) project. You can submit an Expression of Interest [here](#)

A briefing session will be held on 3 April 2013 for any interested certifiers at the Sydney Harbour Foreshore Authority office. Attendance is not mandatory. Places are limited, so please [RSVP](#) to attend. A copy of the presentations made at that session will be circulated afterwards.

Councils currently involved in the EHC project are also required to submit an Expression of Interest if they wish to amend the local government areas in which they provide certification services.

The Expression of Interest process will close on **3 May 2013** with a final decision made in **June 2013**.

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### Event reminder

Dont forget the National Construction Code seminars to be held later this month.

- [Find out more](#)
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## In this issue

HAVE YOUR SAY

EP&A AMENDMENT ACT

PRACTICE ADVICE

WOMEN NSW FUNDING

## Have your say

### Proposed changes to the CPD program and Code of Conduct

The Board is exhibiting proposed changes to its Continuing Professional Development (CPD) program and the Code of Conduct for Accredited Certifiers contained in the Boards Accreditation Scheme.

- [View the revised CPD program](#)
- [View the revised Code of Conduct](#)
- [View the revised CPD policy and arrangements document](#)
- [View an information sheet](#)

The main elements of the revised CPD program include:

- standardising the Boards requirements for CPD for all accredited certifiers to 15 hours per annum
- increasing the pool of Board-recognised CPD providers to maximise delivery options across NSW
- providing direct reporting of CPD to the Board or through a recognised peak body
- regularly providing a list of Board-endorsed CPD topics to certifiers.

The changes to the Code of Conduct have been developed to align with the proposed Australasian Building Certification Forum national Code of Conduct and will assist those certifiers who work across NSW boundaries.

Exhibition of the CPD program will take place from today to 21 April 2013 and the Code of Conduct will be exhibited from today to 21 May 2013.

Submissions can be provided by:

- email: [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au)
- post: PO Box 3720, Parramatta NSW 2124

## Update on Strata and Community Title Law Review

Over 1,900 submissions were received to [Making NSW No. 1 Again: Shaping Future Communities](#) - the Strata and Community Title Law Reform discussion paper.

The next stage of the review process will involve the release of draft legislation for public consultation. NSW Fair Trading expects this will occur in the second half of the year.

NSW Fair Trading has also advised that the [Children and Window Safety Consultation Paper](#) was released on 13 March. The Paper provides information on the NSW Governments response to the report of The Childrens Hospital at Westmead Working Party for the Prevention of Children Falling from Residential Buildings. The Governments response includes a commitment to amending strata scheme management laws to mandate the installation of locks on windows that present a danger to children, with a five year implementation period. Community feedback on the implementation of the proposals is being sought by 24 April 2013.

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## EP&A Amendment Act - clarifications

### Compliance certificates

In our 1 March BP Bulletin, we provided an information sheet which, in part, contained information about PCAs issuing compliance certificates. These changes related to the new EP&A Amendment Act.

Following a query, the Board wishes to clarify that there are the following exceptions to the conflict of interest provisions of the BP Act:

- An accredited certifier involved in the design or construction of an aspect of a development can issue a compliance certificate for the design and installation of that aspect, except where the certifier is the PCA for the development. For example, if an accredited certifier (not being the PCA) designed a fire service, they could issue a compliance certificate under section 109C(1)(a)(v) of the EP&A Act that the design complied with particular standards.
- An accredited certifier who is related to a person who was involved in the design of an aspect of a development can issue a compliance certificate under section 109C(1)(a)(i) EP&A Act (that is, that the work is completed and complies with specified plans and specifications) in respect of that aspect, except where the certifier is the PCA for the development.

Neither the legislation nor the information sheet are intended to prevent PCAs from issuing a compliance certificate for a development, provided they do not breach conflict of interest provisions. However, it is worth remembering that an accredited certifier involved in the design or construction of a building cannot be the PCA for that development as they will have a conflict of interest preventing them from issuing the occupation certificate.

A PCA could, for example, issue a compliance certificate to the effect that the intersection of fire resisting elements or openings for UPVC pipes through fire resisting elements were protected in accordance with Part C3 of the BCA, except where they are involved in the design or construction. It should be noted, however, that an accredited certifier does not have the protection afforded by section 109P(1) of the EP&A Act (the presumption of validity and protection from claims for damages) in respect of any Part 4A certificate that they have issued themselves.

### Written contracts

A number of queries have come in regarding written contracts. We will be issuing further advice on these new requirements as soon as possible.

Please note that the template written contracts that were developed by the Board are templates only and were issued to advise certifiers how to comply with the new requirements.

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## Practice advice

### Compliance cost notices

Following the recent amendments to legislation in regard to compliance cost notices, the Board has received an inquiry as to whether a notice can now be issued in respect of costs or expenses relating to Council investigations that do not lead to the giving of an order.

Section 121CA of the EP&A Act makes it clear that a compliance cost notice can only be issued where an order has been given. Further, clause 281C of the EP&A Regulation provides for the maximum amount that may be paid under a compliance cost notice in respect to costs or expenses relating to either

1. an investigation that leads to the giving of an order, or
2. the preparation or serving of the notice of intention to give an order.

This means that the issue of a compliance cost notice to recover costs or expenses associated with the preparation or serving of the notice of intention to give an order only applies where an order has been issued.

A compliance cost notice may not be issued to recover costs or expenses for investigations that do not result in the giving of an order.

### One consent for building work: multiple PCAs?

Dont forget - under section 109E(1) of the EPA Act, only one PCA can be appointed for a development consent or complying development certificate that only involves building work, as detailed in the BP Bulletin of [December 2008](#).

For example, where a development consent is granted for a dwelling and a pool, and both structures are approved under separate construction certificates, the one PCA must be appointed to certify all building work relating to that consent.

If there are two development consents, one for the dwelling and one for the pool, different PCAs can be appointed for each development consent.

For a development consent that approves both building work and subdivision work, section 109E(1)(a) requires that there must be an appointment of a PCA for the building work and a separate appointment of a PCA for the subdivision work. The same person could be appointed for both types of work, provided they have the required accreditation.

### Swimming Pools Amendment Act update

The Division of Local Government has provided a Circular that provides an update on the implementation of the *Swimming Pools Amendment Act 2012*.

- [View the Circular](#)

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## Investing in Women

### Funding program 2013

In 2013, [Women NSW](#) is offering an exciting new funding opportunity for projects that lead to economic empowerment of women through training and employment in non-traditional trades. Non-traditional trades are those with 25 per cent or less participation of women.

Investing in Women, Women NSW's funding program, is about supporting key stakeholders to encourage women into the trades and to improve opportunities and outcomes for women in the priority area of economic participation.

The program will ensure that all funding aligns with the NSW Government's

priority to increase the proportion of women employed in non-traditional occupations in NSW (as outlined in Goal 1 of [NSW 2021](#)).

Key stakeholders who are eligible for Investing in Women funding include:

- local councils and shires, including regional organisations of councils and consortia of councils
- peak organisations representing womens stakeholder groups
- not-for-profit organisations, including community organisations
- industry bodies and the private sector working in partnership with the government on initiatives directly supporting women and girls entering non-traditional trades.

Funding up to \$25,000 is available for partnership projects through a submission process.

- [Find out more](#)

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Parramatta NSW 2124

Tel: (02) 9873 8537  
Fax: (02) 9873 8517  
Email: [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au)

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## In this issue

WRITTEN CONTRACTS

PRACTICE ADVICE

CPD PROVIDERS

HAVE YOUR SAY

## Update on written contracts

The Board has consolidated the various Q&As we've pulled together to explain the details of the written contracts that came in with the EP&A Amendment Act last month.

Please remember:

- The templates provided for the contracts are advisory only it is not compulsory to use them, however complying with the new requirements of the BP Act and BP Regulation is compulsory.
- If your business or council already uses contracts, and these comply with the new requirements, then continue to use them.
- Written contracts were a key part of the consultation that took place last year, and had their own online survey. Click [here](#) to see more.

- [View the Q&As](#)

---

## Practice advice

### Summary of complaints and investigations

The Board has released its latest Summary of complaints and investigations, detailing case studies that have come forward to the Boards Investigations Team.

- [View the summary.](#)

### New councils join Electronic Housing Code

Kogarah Council and Mid-Western Regional Council have joined the online Electronic Housing Code (EHC) system which offers families and builders access to fast-tracked online housing approvals.

Twelve councils are live on the system and the EHC project management office aims to implement the EHC system in 35 local government areas by 30 June 2013.

### New LEPs

Two more council-wide plans have been approved with 103 standard instrument local environmental plans (LEP) made since 2006.

Strathfields new LEP replaces Strathfields 43-year-old planning scheme and the Lismore LEP provides additional land for residential, business and industrial uses.

### New building circular: safety of awnings over public lands

The Department of Planning & Infrastructure has released a new circular (BS13-001) to raise awareness of the recurring potential safety issues related to awnings over public lands such as footpaths and to seek councils cooperation in taking action to communicate and follow up with building owners to minimise future risks of collapse.

- [View the new Circular](#)

---

## Looking for CPD providers

The Board has met with building certifiers, universities, TAFEs, private training organisations, peak bodies and relevant State agencies and local government representatives to commence our planning for a new continuing professional development (CPD) course: *Complying development certificates: managing the challenges in determining and issuing CDCs*.

We anticipate that CPD programs for complying development certificates (CDCs) will be up and running from June 2013. While the Board has decided in principal to require A1, A2 and A3 certifiers to undertake CPD training on CDCs, the implementation of this requirement will depend on responses from potential CPD providers.

CPD providers who would like their program to be endorsed by the Board should contact [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au) to obtain the relevant criteria. They should use this same email address to submit their application for endorsement by 30 April 2013.

Courses endorsed by the Board will be listed on the Boards website once the application process is finalised.

---

## Have your say

### Children and Window Safety Consultation Paper

Dont forget, NSW Fair Trading released the [Children and Window Safety Consultation Paper](#) on 13 March. The Paper provides information on the NSW Governments response to the report of The Childrens Hospital at Westmead Working Party for the Prevention of Children Falling from Residential Buildings.

The Governments response includes a commitment to amending strata scheme management laws to mandate the installation of locks on windows that present a danger to children, with a five year implementation period. Community feedback on the implementation of the proposals is being sought by 24 April 2013.

### Local Government Acts Taskforce discussion paper

The Local Government Acts Taskforce (LGAT) Discussion Paper *A New Local Government Act for NSW* has been released.

The Discussion Paper outlines the deliberations of the LGAT on options and proposals for the principles of the new legislation. It contains a number of proposals for consideration and discussion.

Councils are encouraged to make submissions - details on how to do so can be found on the [LGAT webpage](#). The closing date for submissions is Friday 28 June 2013.

---

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LOCAL DEVELOPMENT  
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## A new Planning System for NSW

### White Paper released

Dont forget to take a look at the Planning System White Paper submissions are due by 28 June 2013 (not 30 June as published in our special edition BPBulletin earlier this week).

We will keep you up to date via the BPBulletin on any opportunities for face to face or online consultation.

- [Find out more about the White Paper.](#)

---

## Local development monitoring

The Department of Planning & Infrastructures [local development performance monitoring report](#) has been released. The Board has developed a summary of statistics relating to certification.

- [View the summary.](#)

---

## Local Government Acts Taskforce

### Upcoming workshops

As mentioned in a previous edition of the BPBulletin, the Local Government Acts Taskforce has released a Discussion Paper *A new Local Government Act for NSW*.

A new circular has been released to announce a series of workshops that will be held during May 2013.

- [View the circular](#)
- 

## Practice advice

### Bushfire assessments

The Board has received an inquiry whether an applicant can re-use a bushfire attack level (BAL) certificate obtained for a previous dwelling for an ancillary development on the same site, in order to satisfy the requirements of clauses 3.36B and 3A.37 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP).

In consultation with the NSW Rural Fire Service and the Department of Planning and Infrastructure, the Board considers that the bush fire assessment for the issue of a BAL certificate under the Codes SEPP must be specific to the proposed development as 'the part of the lot on which the development is to be carried out and any associated access way is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ)' (as required by clauses 3.36B and 3A.37 of the Codes SEPP). The assessment for a BAL certificate is based on the site's effective slope, predominant vegetation and distance to vegetation in relation to the proposed work.

The previous BAL certificate may or may not be appropriate for the ancillary development as the previous BAL certificate may have captured the area where the ancillary building is proposed to be located or the details of the ancillary development may be different to the dwelling.

Ultimately, the certifier needs to be confident that what they are certifying meets the provisions of the Codes SEPP, including that a legitimate BAL certificate has been issued in relation to the proposed work and that the relevant development standards have been met.

### Residential aged care

The Department of Planning & Infrastructure has released an advisory note about fire safety in residential aged care facilities.

- [Read the advisory note](#)

More information can be found on the Department's [website](#).

## New Sydney Water Land Development Manual

Sydney Water has produced a [Land Development Manual](#) that provides background on Sydney Waters land development processes as well as a tool to help certifying authorities and their customers to understand Sydney Waters processes and business rules for land development.

Visit the [Land Development](#) page in the Plumbing, building & developing section of Sydney Waters website and dont forget to update your link to Sydney Waters list of [Quick Check](#) agents.

Contact [Bruce Hansard](#) at Sydney Water if you have any queries.

---

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## Message from the President

After nearly five years as President of the Building Professionals Board, I have advised the Minister for Planning and Infrastructure, Brad Hazzard, that I will not be seeking reappointment.

As a result, I will be stepping down at the end of the month.

The Board I have chaired has achieved significant outcomes over its time in office. We have:

- achieved one system for accredited certifiers
- reduced turnaround times for discipline and accreditation matters
- developed clear discipline and penalty guidelines
- undertaken extensive advocacy with education providers
- instigated State-wide advisory reviews
- regularly met with key stakeholders and undertaken extensive consultation on key proposals
- regularly developed and processed detailed legislative improvements to certification
- developed the Better Buildings Model for an improved building system
- provided regular practice advice.

These are solid and responsible improvements necessary to make the building regulation and certification system truly effective and to meet the objectives of the planning system.

I thank you all for your support during my tenure and look forward to seeing the continued improvements to the NSW building regulation and certification system.

Sue Holliday  
BPB President

---

## White Paper forums

The NSW Government is committed to community participation on the State's new planning system.

Regional and metropolitan discussion sessions have been announced by the Minister for locations around the state to coincide with the White Paper exhibition period.

Afternoon workshops will be held for building practitioners in four locations around NSW and community workshops are being held in the evening.

- [View details of these sessions](#)
- [Find out more](#)

---

## News from the ABCB

### National Construction Code 2013

The Australian Building Codes Board (ABCB) reminds certifiers that the National Construction Code 2013 - comprising the Building Code of Australia (BCA) (Volumes One and Two) and the Plumbing Code of Australia (Volume Three) - came into effect on 1 May 2013.

The Department of Planning and Infrastructure will shortly publish information on the key changes made to the BCA in 2013.

- [Link to more information](#)

### PCA 2013 - replacement figure

An outdated figure - titled "Figure G1.5.3 - the WaterMark Certification Process" - has been mistakenly included in Section G of Volume Three of the Plumbing Code of Australia (PCA). The oversight has been addressed within the online version of the PCA and a downloadable PDF version of the figure is now available [here](#). Please insert into your 2013 edition of the PCA to avoid any misinterpretation.

### Economic benefits of Building Regulatory Reform

A review commissioned by the ABCB has found the Australian economy is gaining an economic benefit of \$1.1 billion a year as a result of building

regulation reform.

- [View the review](#)
- 

## Events

### Implementation workshops - Swimming Pools Amendment Act and Boarding Houses Act 2012

Free Implementation Workshops are being held to support council staff responsible for swimming pool and boarding house compliance under the new regulatory frameworks.

- [Find out more](#)

### AWES Workshop

The 16th Australasian Wind Engineering Society Workshop will be held in Brisbane in July.

- [Find out more](#)
- 

## Written contracts

Due to a number of submissions regarding new requirements for written contracts, the Board will be looking to rationalise the templates it has provided, with assistance from the Technical Reference Group. As with our previous advice, please remember the templates have been developed as a guide only; your existing templates can still be used, so long as they meet the new requirements.

- [View the Q&As](#)
- 

## Circulars

A number of relevant circulars and brochures have been released:

- The NSW Swimming Pools register has commenced ([read more](#))

- The Department of Planning and Infrastructure has clarified the definition of sole occupancy unit ([read more](#))
- The Independent Local Government Review Panel has released its Future Directions Report ([read more](#))
- The Division of Local Government has released guidelines on the closure of council and committee meetings ([read more](#))
- Fees are increasing for Land and Property Information land title related products and services ([read more](#))
- The NSW Architects Registration Board has produced a brochure explaining the role of architects ([read more](#))

---

### Job opportunity

A vacancy for a Senior Departmental Investigator has opened at the Board. Applications close on 12 May.

- [Find out more](#)

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## White Paper news

### New White Paper discussion sessions

Three additional White Paper discussion sessions will be held in June, in response to strong interest from the public and stakeholders.

An additional session for councils and planning practitioners has been scheduled for:

- Sydney CBD - Tuesday 18 June, 2 pm to 4 pm.

Two new community sessions have been scheduled for:

- Roseville (Sydney - North) - Wednesday 12 June, 6 pm to 7.30 pm
- Sydney CBD - Tuesday 18 June, 6 pm to 7.30 pm

Community discussion sessions are now being held in 18 NSW locations. The first community discussion session in Sydney's north, held earlier this month in Hornsby, was booked out. Sessions being held in Sydney this week are also booked out.

To register for an upcoming event, visit [www.planning.nsw.gov.au/events](http://www.planning.nsw.gov.au/events)

You can also view feedback received at the sessions so far [here](#).

## Enquiry line

Dont forget, enquiries about the White Paper including Chapter 8 that refers to the building regulation and certification system - should be referred by phone 1300 305 695 or by email [newplanningsystem@planning.nsw.gov.au](mailto:newplanningsystem@planning.nsw.gov.au).

---

# Model Asbestos Policy

## Section 23A guideline

The Model Asbestos Policy for NSW Councils has been released as a guideline under section 23A of the *Local Government Act 1993*. This means that councils must consider the Policy when developing, adopting and implementing asbestos policies for their local government areas.

- [View the circular](#)
- 

## Reminders about the accreditation process

### Insurance

Dont forget: you cannot practise without the appropriate insurance and without this insurance, you could be exposed to liability should something go wrong.

In the process of assessing applications and renewals for accreditation, the Board has found many certifiers fail to provide an updated certificate of currency both prior to the expiration of their insurance and when their accreditation is due for renewal. Without appropriate evidence that you have the required insurance when applying for accreditation renewal, the Board may refuse the application.

Further, the Board fields many calls from the public enquiring about insurance details as this requirement is often overlooked.

You can check your records by visiting [www.bpb.nsw.gov.au](http://www.bpb.nsw.gov.au) and clicking on Find a Certifier.

### Council notifications

Councils are once again reminded that they must, under clause 20D of the BP Regulation 2007, advise the Board when new building surveyors who hold accreditation with the Board commence or cease work with the council. Council can check the currency of information held by the Board by visiting [www.bpb.nsw.gov.au](http://www.bpb.nsw.gov.au).

It remains Councils responsibility to notify the Board as to the accuracy of this information.

---

## Safety campaigns

Did you know there is a specific page for the Department of Planning and Infrastructures safety campaigns?

- [View the page](#)
- 

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## In this issue

NEW CATEGORY

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COURSES

## New Category of accreditation and SEPP

The State Environmental Planning Policy (Port Botany and Port Kembla) 2013 (the Ports SEPP) commenced on 31 May 2013.

Bringing about changes that will provide consistency to infrastructure that is built on land in Port Botany and Port Kembla, the new SEPP identifies certain development as exempt and complying development, and specifies matters to be considered when determining whether to grant consent to development adjacent to development for port purposes. It applies to land identified on a Land Application Map identified in the SEPP.

The introduction of the SEPP has required an amendment to the Building Professionals Regulation 2007 (BP Regulation) to create a new category of accreditation: Category A5-Accredited certifier-Port Botany and Port Kembla.

This change comes about because Schedule 2 of the Ports SEPP identifies certain structures that do not have a classification under the Building Code of Australia (unclassified structures) as complying development. These structures include ship loaders and associated conveyor belts and rail mounted cranes.

The new Category A5 accreditation authorises the issue of CDCs and compliance certificates for building work or demolition of unclassified structures that are erected for the purposes of development of a kind specified as complying development under the Ports SEPP.

Although the amendment to the BP Regulation has commenced, the Board is still developing appropriate criteria for the new category. We will consult with stakeholders to develop the criteria, and, until people can be accredited as an A5 certifier, CDCs under the Ports SEPP will be able to be issued by councils.

Clause 156(1) of the Environmental Planning and Assessment Regulation

2000 was also amended to provide that unclassified structures under the Ports SEPP do not require an occupation certificate to be issued before the structure may be occupied or used. A new provision, clause 162AB, prescribes the critical stage inspections that apply to unclassified structures under the Ports SEPP.

The requirement under section 85(1)(b) of the EP&A Act for a CDC for building work to include the BCA classification of the building does not apply to an unclassified structure under the Ports SEPP.

The amendments can be viewed [here](#) under the Notifications for the week beginning 27 May.

---

## Practice advice

### New BASIX Guide

BASIX has developed a guide to assist councils and certifiers certifying the thermal comfort requirements using the Simulation method. The guide is to describe how certifiers can check that information submitted to the Thermal Comfort section of BASIX using Simulation is valid. While the guide is aimed at certifiers, assessors accredited to use the Simulation method may also find it useful to understand what documents must be prepared.

- [View the guide](#)

### BCA assessment reports and conflicts of interest

The Board has been asked for clarification on whether it is a conflict of interest if a certifier prepares a Building Code of Australia (BCA) assessment report prior to a construction certificate being applied for and then becomes the certifying authority for the construction certificate.

The Board does not consider this presents a conflict of interest, so long as the certifier does not through the BCA Assessment Report propose changes to the plans and specifications other than those that will comply with the deemed to satisfy provisions of the BCA and any of the other conflict of interest provisions in the BP Act and BP Regulation have been complied with. Proposing anything outside of these provisions would be considered a conflict of interest and the certifier could not issue the construction certificate.

### Action required: change to initial fire safety report legislation

Fire and Rescue NSW (FRNSW) have asked the Board to pass on important information to certifiers regarding initial fire safety reports.

Certifying authorities are requested to advise FRNSW of any outstanding submissions lodged with them that have NOT yet had a construction certificate issued.

- [Find out more](#)

### Fabricated first test report and certificate

BRANZ has released Advisory Note 2013-1 Illegal fabricated Fire Test Report and Fire Test Certificate.

- [Read the advisory note](#)
- 

## White Paper reminder

A reminder that submissions to the *White Paper A new planning system for NSW* are due by 28 June 2013.

Members of the Board's staff have been busy attending a number of industry sessions specific to Chapter 8 of the White Paper on building regulation and certification. If you were unable to attend any of these sessions, you can view the presentation [here](#).

---

## Workshops and courses

### Swimming pool and boarding house compliance: workshops

Don't forget, implementation workshops are being held to support council staff responsible for swimming pool and boarding house compliance under the new regulatory frameworks.

Theres still a number of these being held around the State, and they are open to private certifiers as well as council staff.

- [Register here](#)

## NCC webcast

The ABCB webcast on the 2013 National Construction Code (NCC) Information Seminars is now online.

The webcast, which is based on the 2013 Information Seminars delivered in all capital cities, provides practitioners with an overview of the 2013 amendments to the NCC. Updates on recently amended Australian Standards affecting all three Volumes, are also presented by Standards Australia.

The webcast covers:

- an overview of changes to the BCA (Volumes One and Two)
- an overview of changes to the PCA (Volume Three) and
- an update on relevant standards by Standards Australia, for all three volumes.

The webcast can be accessed from the ABCB website by [clicking here](#).

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Practice Advice

Draft BCA 2014

Fenestration Australia 2013

## BPBulletin - 28 June 2013

### BASIX Compliance Audit program

The Department of Planning and Infrastructure has released a new study that monitors whether water and energy saving design measures and technologies listed on the BASIX certificate as building commitments are marked on plans and other documentation that accompany either a development application (DA), application for a complying development certificate (CDC) or construction certificate (CC).

- [Read the independent report](#)

---

### New self-assessment tool for owner-builder permits

NSW Fair Trading has developed an easy to use self-assessment tool that allows those building or supervising building work on their own property to determine whether they require an owner-builder permit, their eligibility and which application form they should use.

- [Visit the Owner-builder self assessment tool](#)

---

### Introduction of Service NSW

Service NSW allows people to do more government transactions and access more services in the one location. Initially it will provide transactions available at Roads and Maritime Services, Fair Trading and Births, Deaths and Marriages.

From July this year Service NSW will launch a 24/7 phone line and new website and these will be supported by 18 new service centres which will

begin opening in a staggered manner, also from July.

For information about Service NSW in your area, visit the [Service NSW website](#).

---

## Practice advice

### PCAs on one development consent

After a specific query, the Board has advised that it is possible to have more than one principal certifying authority for building work for a development consent in the following situation:

- where a single development consent has been issued by the council for a community title subdivision and the development consent approves of building numerous separate dwellings each on separate lots of land
- the subdivision has been completed and the new owners have purchased an individual lot
- each individual lot owner has a certificate of title.

In this case each lot owner can appoint a PCA for the dwelling on their lot.

The Board's previous advice that where a development consent authorises more than one building (for example a new dwelling and a swimming pool) that only one PCA can be appointed for all of the buildings (the dwelling and the swimming pool) still stands, provided all of the buildings authorised by the consent are on the same property.

---

## News from the ABCB

### Draft BCA 2014: ready for comment

The Australian Building Codes Board has recently released the Draft of the Building Code of Australia 2014 for Public Comment.

Proposed amendments in this edition of the BCA include:

provisions to limit the intrusion of external noise into Class 2 buildings  
the quantification of the slip resistance on ramps, stairways and landings  
provisions for photoluminescent exit signs  
provisions relating to the amount of

overflow that must be accommodated by an eaves gutter changes to the terminology relating to Termite Management Systems changes to the energy efficiency provisions for heated water systems and swimming pool heating. Public comment is welcome to 17 July. Public comment is welcome to 17 July.

- [View the draft for comment](#)

### Protection of openable windows

The ABCB has released an Advisory Note titled "Protection of Openable Windows", which provides further guidance on the changes to the window barrier provisions that were introduced in BCA 2013.

- [View the advisory note](#)
- 

## Events

### Early bird registration for Fenestration Australia 2013

For the first time, the Australian Window Association (AWA) will join forces with the Window Film Association of Australia and New Zealand (WFAANZ), Skylight Industry Association (SIA) and Australian Institute of Surface Finishing (AISF) to host the Fenestration Australia 2013 exhibition and conference in Canberra from October 3-5.

Early bird registrations are open to 5 July.

- [Find out more](#)
- 

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AAC annual conference

## BPBulletin - 16 August 2013

### Development contributions: S94E Amendment Direction effective 16 July

Section 94E of the *Environmental Planning and Assessment Act 1979* authorises the Minister to issue a direction to councils in relation to the development contributions that they can impose.

A new Amendment Direction took effect on 16 July. It should be read in conjunction with the direction issued on 28 August 2012, which remains in force.

- [Download the new s94E Local Infrastructure Contributions Amendment Direction](#)

---

### Have your say: Condensation in Buildings

The Australian Building Codes Board (ABCB) seeks comments on the draft second edition of the Condensation in Buildings handbook.

The draft incorporates advice and recommendations sourced from published research, industry professionals and other experts. It aims to be more accessible and user-friendly by providing more illustrations and detail.

[Visit the ABCB website](#) to download the handbook, as well as a template to prepare your comment. Comments close 2 September.

---

### Notice from CSIRO: Firetard-treated timber

CSIRO released an advisory in regard to the issue of a Certificate of

Assessment to Fire Retardant Technologies Pty Ltd, for western red cedar treated with Firetard 120. CSIRO advised that it has not issued the certificate, which cannot be relied upon to verify performance.

- [Read the letter of advice from CSIRO](#)
- 

### COAG Decision Regulation Impact Statements

The Council of Australian Governments (COAG) National Licensing Steering Committee has made Decision Regulation Impact Statements for 'Wave 1' national licensing occupations. The Statements outline the preferred approach to national licensing for each occupation, policy options, and why the preferred option was recommended.

The aim is for a seamless national approach to licencing, by removing regulatory duplication and inconsistency between states and territories. The Statements and consultation will help the Standing Council for Federal Financial Relations to decide the best approach.

- [Download the Decision Regulation Impact Statements and accompanying information](#) about the process
- 

### Driveway safety guidelines

The Federal Department of Infrastructure and Transport has released a discussion paper, *Driveway Safety Design Guidelines*. The paper may form the basis of a best practice, voluntary design guide on driveway safety to reduce deaths and injuries to children from collisions with vehicles.

- [Download the Driveway Safety Design Guidelines discussion paper](#)- this page also has further links and information about driveway safety
- 

## Practice advice

### Reminder: endorsing certificates? No proxies allowed!

The Board has recently been made aware of the occurrence of documents being signed 'on behalf of' a certifier, or signed with an electronic signature.

Certifiers are reminded that **Part 4A certificates and complying development certificates** issued under Parts 7 and 8 of the EP&A Regulation must be signed by the person who issues them.

Also, remember that under clause 19A(3) of the Building Professionals Regulation, a **contract for certification services must be signed**, or otherwise appropriately executed, **by the parties to the contract**.

### Accredited certifiers can work for any council

**Going to work for a different council? Wondering if your current certificate of accreditation will remain valid?** The answer is yes! Your council accreditation (unless expired, suspended or cancelled) lets you carry out certification work on behalf of any council.

If you want to work for council on a contract basis, you'll need professional indemnity insurance and you must provide evidence of this to the Board when you renew your council accreditation. Otherwise, the Board might suspend your accreditation until you gain employment with a council (on a full time, part time, temporary or casual basis).

**Note:** the Board may suspend or cancel a certificate of council accreditation under section 8(2)(b1) of the *Building Professionals Act 2005* if a certifier ceases employment with a council.

### Fire sprinklers in aged care facilities: concealed spaces

In April we reminded you of the new laws requiring automatic fire sprinklers to be installed in residential aged care facilities.

The Department of Planning and Infrastructure has just released further advice about [how the new fire safety laws apply to concealed spaces](#).

Other new resources on the Department's website include a progress report and an interactive NSW map showing how the new laws are being implemented, plus advice on retrofitting fire sprinklers.

- [Download the new advisory note about how the Fire Sprinkler Standard applies to concealed spaces](#)
- [Visit the website for more resources about fire safety in residential aged care](#)
- [Download the advisory note \(April 2013\) about the Fire Sprinkler Standard](#)

### Free advice: fire safety, access and services in heritage buildings

The Fire, Access and Service Advisory Panel is the Heritage Council's expert

technical panel. It provides councils, government agencies and property owners with free advice on how to upgrade heritage buildings to meet legal requirements for fire safety, access for people with disabilities, and other building services, while retaining the building's heritage significance.

[Visit the Office of Environment and Heritage website](#) for more information about the Panel including its terms of reference, membership, an application form for advice, and other useful resources.

---

## Planning circulars

### Building Code of Australia 2013

A new planning circular outlines key changes to the Building Code of Australia in 2013 as they apply to NSW.

In particular, see the comments about Australian Standard 1926.1 - 2012 and its application in NSW. It is advised that under the Swimming Pools Regulation 1998, these provisions apply to all swimming pool barriers constructed on or after 1 May 2013.

- [Download BS 13-003: Building Code of Australia 2013-key changes](#)

### Construction of Buildings in Flood Hazard Areas

A new planning circular provides information regarding the relationship between building construction in flood-prone areas, and the new provisions of the Building Code of Australia:

- [Download BS 13-004: The NSW Planning System and the Building Code of Australia 2013: Construction of Buildings in Flood Hazard Areas](#)

---

## AAC annual conference

### Celebrating 10 years

The Association of Accredited Certifiers annual conference - *Coming of Age: 10 years on* - is on 13 September.

- [Find out more about the conference and register your attendance](#)

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[Swimming pool survey: A1-A3 certifiers](#)

[Website updates](#)

[Events and training](#)

[SUBSCRIBE](#)

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## BPBulletin - 30 August 2013

### CPD: changed requirements for council certifiers

On 2 August, amendments to the [Board's Accreditation Scheme](#) which affect council accredited certifiers were gazetted.

All council certifiers must now complete 8 hours of Continuing Professional Development (CPD) in their 4th and subsequent years of accreditation (the Scheme previously listed CPD requirements for the 1st to 3rd years).

---

### Compliance certificate template for swimming pools

A [template for a compliance certificate for swimming pools](#) is now available on the Board website.

The Division of Local Government, Department of Premier and Cabinet, administers the *Swimming Pools Act 1992*. **Contact the Swimming Pool Register help desk** on 1300 922 310 or [pools@dlg.nsw.gov.au](mailto:pools@dlg.nsw.gov.au) for more information.

The [NSW Swimming Pool Register](#) will also generate compliance certificates automatically. Certificates will be generated when a certifier logs a report on

the website to confirm a registered pool or spa has passed inspection.

Private certifiers will need to become authorised users of the NSW Swimming Pool Register to issue compliance certificates. From 29 April 2014, any residential property sold or leased must have a compliance certificate for the swimming pool.

---

## 2-minute survey of private certifiers

Our [2-minute online survey of A1-A3 private certifiers](#) will help us see how many intend to certify swimming pools under the *Swimming Pools Act*. We ask that you [complete the survey](#) **whether or not you intend to certify swimming pools**.

The survey is anonymous unless you choose to submit your contact details, and will be open until 30 September.

We'll share the results of the survey with the Division of Local Government, to help them develop the system to register certifiers as authorised users of the Swimming Pool Register.

---

## Website updates

If you've visited the [Building Professionals Board website](#) lately you may have noticed some improvements.

For instance, certification forms/ templates are now categorised for use by private or council certifiers, and we're replacing many PDF documents with HTML webpages so they're more likely to be listed in search results and easier to keep current.

We want to make the website simple to navigate so you can quickly find forms, guidelines and other resources. We welcome your ideas and feedback at any time to [policy@bpb.nsw.gov.au](mailto:policy@bpb.nsw.gov.au).

The [Department of Planning and Infrastructure website](#) is also getting a makeover so that it's easier for people to find out about the work of the department and get involved.opportunities:

- Building Professionals Board: [www.bpb.nsw.gov.au](http://www.bpb.nsw.gov.au)

- Department of Planning and Infrastructure: [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)
- 

## Events and training

### ABCB national conference 15-18 September

The ABCB, with Master Plumbers Australia and the Australian Institute of Building Surveyors, will present the national conference, *Building Australia's Future*, on 15-18 September in Brisbane.

Email [BAF2013@abcb.gov.au](mailto:BAF2013@abcb.gov.au) or [visit the conference website](#) for details.

### Seminar series: bushfire assessment skills

AAC is advertising a series of bushfire assessment seminars across NSW, covering legislative responsibilities and development assessment skills for certifiers. Catherine Gorrie (Bushfire Consulting Services) is presenting the seminars.

[Visit the AAC website for the seminar program and to register.](#)

### Other training

The Planning Institute of Australia is advertising upcoming training opportunities:

- [compact housing](#) (Penrith, 24 October) covering housing design, development controls and approval methods
- [negotiation skills](#) (Sydney, 10 September).

The [Australian Institute of Building Surveyors \(NSW/ACT chapter\)](#) is advertising upcoming training opportunities:

- changes to swimming pool legislation (Parramatta, 18 September)
- waterproofing compliance (ACT, 19 September)
- Hearing Access Compliant Class 9B buildings (Parramatta, 5 November).

---

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#### Important Note

This bulletin does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary,

Building Professionals Board  
PO Box 3720  
Parramatta NSW 2124

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[Upfront payments](#)

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[Go to BPB website](#)

## BPBulletin 13 September 2013

### Codes SEPP workshops/ information sessions

Changes to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) are on the horizon.

During October and November, the Department of Planning and Infrastructure will run a statewide series of workshops/ information sessions about the proposed amendments.

Board staff will attend some sessions in Sydney, Parramatta and regional areas to explain the amendments, particularly how they affect private certifiers and other consultants in the building industry. Other sessions will be focused towards council staff.

Registration information will be posted on the Department of Planning and Infrastructure's website. We'll also keep you informed via the Board's website and bulletin.

View the [proposed amendments to the Codes SEPP and submissions](#) from the 2012 public consultation.

---

### 'I'll get back to you'... complaints about tardy PCAs

A Principal Certifying Authority (PCA) may get questions or complaints about a development from stakeholders like neighbours, community groups and council.

At the Board we often get complaints about a PCA being slow to return calls and emails.

We understand that some questions PCAs receive may be better directed to the consent authority. However, a PCA is a public official. A PCA should respond to all questions in a timely manner (even if just to refer an enquirer to someone else who can assist) and take action as appropriate.

### More information

- [Guide to the Code of Conduct for accredited certifiers](#)
  - [Guide to managing complaints about development](#) (including tips to avoid complaints in the first instance)
- 

## Reminder: written contracts and upfront payment

Before you do any certification work for a person, you must have a written contract with that person.

The contract must specify upfront payment (except as noted below). This ensures you get paid even if you refuse an application for a development certificate, or if you're pressured to issue it by a certain date.

Under the BP Regulation (19A(4c)), a contract can permit payment afterwards only for work that arises due to unforeseen circumstances. In these cases, you must issue an invoice within 21 days of the work being completed.

The Board's website has [contract templates for use with any class of building](#). These give you assurance in knowing that the contract covers all legislative requirements.

The website also has [more information about written contracts](#).

---

## Swimming pool survey closes 30 September

Thank you to everyone who has taken our 2-minute online survey about swimming pool inspections by private certifiers.

The survey closes on 30 September and we want to hear from you even if you don't intend to inspect swimming pools. It's completely anonymous unless you choose to submit your contact details.

**So far, 26 per cent of certifiers intend to inspect swimming pools**, 36 per cent don't, and 13 per cent are undecided (these results include an unknown number of council staff).

Survey results will be provided (on an anonymous basis) to help the Division of Local Government develop an authorisation process for certifiers to use the [NSW Swimming Pool Register](#).

The Division of Local Government (Department of Premier and Cabinet) administers the *Swimming Pools Act 1992*. **Contact the Swimming Pool Register help desk** on 1300 922 310 or [pools@dlg.nsw.gov.au](mailto:pools@dlg.nsw.gov.au) for more information.

---

## Have your say: affordable housing (Growth Centres

# SEPP)

The availability of affordable housing is becoming a bigger challenge each year. The rate of home construction in NSW is increasing but still lags behind demand for affordable housing.

More affordable housing may be delivered through legislation and policy that facilitates the role of councils, certifiers, developers and the construction industry to meet the different types of housing needed in identified 'Growth Centres' in Sydney.

The policies we make now may have a big impact on the work of certifiers for years to come. Have your say by 14 October on the [proposed changes to the Growth Centres SEPP](#).

---

## Events and training

### Free Home Building seminar 18 September (Wyong)

NSW Fair Trading is offering a free home building seminar, 5-8pm Wednesday 18 September, Kooindah Waters Golf Club, Wyong.

Some of the topics include business strategies, building regulatory requirements, legislative changes, building contracts and variations, dispute resolution, compliance issues and record-keeping.

[Book online](#) or contact [Building\\_Expos@services.nsw.gov.au](mailto:Building_Expos@services.nsw.gov.au) or 13 32 20 for more information.

---

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#### Important Note

This bulletin does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this bulletin.

#### Disclaimer

Building Professionals Board  
PO Box 3720  
Parramatta NSW 2124

Tel: (02) 9873 8537  
Fax: (02) 9873 8517

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## BPBulletin 27 September 2013

### Board enquiry line: new operating hours

The Board's enquiry line is now open **9:30-11:30 am, Tuesday, Wednesday and Thursday only**.

People who call at other times will be reminded of the new operating hours.

If a matter is urgent, we'll pass your message to the next rostered staff member to manage.

All callers - certifiers, homeowners and the general public - will still be given the same high level of service as before.

---

### Codes SEPP information sessions postponed

The last BPBulletin advertised information sessions about the proposed changes to the Codes SEPP, to be held across NSW in October/ November.

**The information sessions have been postponed** due to recently announced changes to the Planning Bill (see below) that affect complying development.

We'll keep you updated via the website and BPBulletin. You can also check the [Department of Planning and Infrastructure's website](#) for the latest news.

---

## NSW planning reforms: update

Following community feedback, the Minister for Planning and Infrastructure recently announced [changes to the exposure Planning Bill](#) before its introduction to Parliament.

Some changes include:

- the target of 80 per cent of development being complying or code assessment has been removed
- code assessable development will only apply in nominated growth areas (e.g. around certain train lines, or areas nominated by councils)
- councils will be able to modify the state-wide codes to reflect their local area.

Certifiers, especially those who work across different council areas, will need to ensure they have current knowledge of any modifications to the state-wide codes that apply in their local area.

---

## Have your say: ABCB report into NCC changes - emergency egress

The Australian Building Codes Board (ABCB) seeks comments on its *Directions Report on Egress for All Occupants*.

**Comments close Friday 1 November.**

The report is about proposed changes to the National Construction Code to improve emergency egress from buildings for all occupants, including people with a disability. The proposals apply to Class 3, Classes 5 to 9 and some common areas of Class 2 buildings under the Building Code of Australia.

You can comment through email or post and the ABCB has developed a list of questions to help.

[Access the report, response form \(list of questions\) and background information](#) on the ABCB website.

---

## New e-bulletin: fire sprinklers in aged care facilities

The Department of Planning and Infrastructure has a [new e-bulletin](#) about the installation of automatic [fire sprinklers in residential aged care facilities](#) across NSW.

The e-bulletin tracks implementation of the new law designed to protect residents and give peace of mind to families.

Councils and certifiers have a critical role. They advise aged care providers on technical requirements to ensure the effectiveness of fire sprinkler systems.

- Read the [September e-bulletin about fire sprinklers in aged care facilities](#).
  - Email [liz.skerrett@planning.nsw.gov.au](mailto:liz.skerrett@planning.nsw.gov.au) to subscribe or contribute to the e-bulletin.
-

# Window locks: new child safety laws

Strata and residential tenancies legislation will be amended to:

- require owners' corporations to install safety devices on all windows that pose a safety risk to young children
- allow owners to install safety devices regardless of the by-laws of the strata scheme
- include window safety devices in the prescribed condition report for rental premises.

Owners' corporations will have until 13 March 2018 to comply.

Certifiers should be mindful of the new requirements and can [find out more about window and balcony safety from the Department of Fair Trading](#).

---

## Events and training

### Mechanical services: BCA half-day course

The Australian Institute of Refrigeration, Airconditioning and Heating (AIRAH) is hosting a half-day course about NCC Volume One BCA (Class 2 to 9 buildings) as it relates to mechanical services.

The course is on 30 October in Sydney, but sessions will also be held in each state.

Visit the [AIRAH website for more information and to register for the seminar](#).

### MBA national conference: Canberra 14-16 November

Early bird registration is now open for the Master Builders Australia (MBA) national conference, exhibition and awards, to be held in Canberra from 14-16 November.

The conference theme for 2013, *Building Australia*, focuses on leadership and helping members to grow their business. Presentations will also cover Australia's changing demographics, our economic outlook and the implications for the building industry.

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## BPBulletin 11 October 2013

### Can A3 certifiers certify class 2-9 buildings?

**Practice advice:** *under legislative transitional arrangements, some A3 certifiers (those notified by the Board) may certify class 2-9 buildings under a certain size.*

A3 certifiers are authorised to:

- certify class 1 and 10 buildings that comply with the deemed-to-satisfy provisions of the Building Code of Australia (i.e. that don't achieve compliance via alternative solutions)
- conduct inspections under section 109E(3)(d) of the *Environmental Planning and Assessment Act* (restrictions apply as outlined on page 24 of the [Board's Accreditation Scheme](#))
- conduct inspections under clauses 129B and 143B of the Environmental Planning and Assessment Regulation.

Individual certifiers may also have specific conditions imposed on their accreditation about the type of work they can undertake.

- [Read a summary of the authority conferred on A1-A4 certifiers.](#)
- [Download the Board's Accreditation Scheme](#) for more detail.

---

## BASIX: secondary dwellings under

## \$50,000

**Practice advice:** *all new secondary dwellings need a BASIX certificate regardless of the construction cost, and regardless of whether it is complying development or has development approval.*

We've heard a report of a certifier suggesting that a builder estimate the cost of a new granny flat as less than \$50,000, in an ill-informed attempt to avoid BASIX requirements.

**A granny flat is a new secondary dwelling**, not an alteration or addition (unless specified in a local planning instrument). So a BASIX certificate is always needed.

A BASIX certificate is also needed to convert a garage into a living space. However, if a secondary dwelling is created within an *existing* house (such as by adding partitioning walls and doors) a 'BASIX alternative assessment' may be allowed.

*Before* applying for development approval or a complying development certificate, applicants should [email the BASIX helpdesk](#) to find out if their proposal qualifies for an alternative assessment.

### More information

- 

[Visit the BASIX website](#) or [email the BASIX helpdesk](#). Refer to the [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) and the [Environmental Planning and Assessment Regulation 2000](#).

---

## CC/ CDC needed to install fire sprinklers

Just a reminder that a construction certificate or complying development certificate must be in place before installing/ retrofitting a fire sprinkler system in a residential aged care facility (some recent installations have occurred without approval or appropriate inspections).

For details, read the [letter from Sam Haddad, Director-General, Department of Planning and Infrastructure](#) (dated 4 October).

---

## Using electronic signatures

Our 16 August bulletin highlighted the issue of electronic signatures being used to sign a document on someone else's behalf, and advised that certain documents (like development certificates) must be signed by the certifier, NOT on their behalf.

Under the [Electronic Transactions Act 2000](#) (section 9), documents may be sent electronically if certain conditions are met, such as having the recipient's consent to receive a document in this form.

Section 9 is limited to 'electronic communications', like an email or fax. This doesn't cover the common practice of filling out a form in Word, letting another staff member paste a scanned image of a signature onto it, and mailing a printed copy.

Your safest option is to put pen to paper (making it hard for someone else to use your signature). If you do send documents electronically, a 'digital signature' program might be a good option. These programs allow signatures to be authenticated to help prevent fraud.

You can also tell applicants and other clients how you prefer to receive documents (e.g. sending each development certificate in a separate email can avoid records being confused).

---

## Home building reforms from mid-2014

The Government has released a position paper with 50 [proposed reforms to the Home Building Act 1989](#), designed to protect homeowners and promote building activity and investment.

The reforms were developed following extensive consultation and, if adopted, are expected to start in mid-2014.

Some major reforms include:

- clarifying the definition for structural or major defects
- consolidating licensing provisions to increase consistency
- streamlining and rationalising home building contract requirements
- establishing a public register of home warranty insurance certificates
- working with experts to identify technical issues early on in disputes.

Visit [NSW Fair Trading's website to download the position paper](#).

---

## Summary of complaints & investigations

The [September 2013 summary of selected complaints and investigations](#) is now available on the Board's website.

New case studies about the conduct of accredited certifiers are provided to assist and educate everyone involved in certification.

Topics in the latest edition include:

- due diligence in critical stage inspections
  - Affordable Housing SEPP requirements for complying development
  - recording site inspections
  - compliance with the Codes SEPP.
- 

## Clarification about enquiry line

Our last bulletin advertised changes to our enquiry line operating hours (9:30-11:30 am, Tues-Thurs). These changes are temporary so that we can focus on conducting investigations.

To clarify, **you're welcome to call us at any time during office hours** on 02 9873 8537. However, if you wish to speak to one of our investigators or need technical assistance, please call during the hours listed above.

---

# Tips for submitting documents

Lately, we've received several applications for accreditation that are illegible.

When submitting documents to the Board, it would really help us if you could ensure that documents are neat and legible in black and white (e.g. don't use big blocks of colour or make table headings too dark). Also, please attach documents with paperclips rather than staples.

We appreciate and thank you for your assistance.

---

## Training & resources

### Upcoming training

- [Bushfire assessment skills seminar](#), 23 October, North Ryde. Topics include legislative responsibilities and development assessment skills for certifiers. Offered by the Association of Accredited Certifiers.
- [Compact housing seminar](#), 24 October, Penrith. Topics include housing design, development controls and approval methods. Offered by the Planning Institute of Australia.
- [Australian Institute of Building Surveyors](#):
  - [waterproofing compliance one-day course](#), various dates (16 October to 4 December) across NSW
  - [fire safety engineering](#), 2:30-6pm, 24 October, Parramatta
  - [hearing access compliant 9B buildings](#), 2:30-7pm, 5 November, Parramatta (a TV will be set up for the Melbourne Cup and the seminar will start afterwards).
- [Centre for Local Government \(UTS\)](#): upcoming courses cover swimming pool assessment, fire engineering and alternative solutions, development control, and building certification.
- The [Green Building Council of Australia](#) offers a range of [online courses](#) and [face-to-face courses](#).

### Resources

[Lovegrove Solicitors' e-library](#) has articles about building certification that discuss legislation, the regulatory framework and case law. For example, [The Devil is in the Details: How far into Precise Compliance Does A Certifier Need to Go?](#) offers tips on how to use compliance certificates and highlights cases from NSW and Victoria.

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# BP Bulletin 24 October 2013

## News for council certifiers

The [Building Professionals Amendment \(Exemptions\) Regulation 2013](#) came into effect on 18 October 2013 and amends the conflict of interest provisions for council accredited certifiers.

Certifiers must not issue Part 4A or complying development certificates if they have a 'conflict of interest', except in certain cases as specified in the legislation.

The changes include:

- a **\$5 million limit** on the value of work that may be certified by council certifiers under certain conflict of interest exemptions
- a **new exemption** for council certifiers to issue certificates to the council or a council employee, where the council or employee has been involved in the design or construction of the development (the new \$5 million limit applies)
- transitional provisions.

### More information

- [Refer to the Amendment Regulation.](#)
- [Download our information sheet.](#)
- Call the Board's enquiry line on 02 9873 8537.

---

## Planning Bill 2013 in Parliament

[The Planning Bill 2013](#) was introduced to Parliament on 22 October.

Some changes from the previous Planning Bill include:

- the 80% target for code-assessable development has been removed
- code-assessable development will only apply in nominated growth areas
- councils will be able to modify the state-wide codes to better reflect their local area
- councils will need to prepare Neighbourhood Impact Statements if they intend to implement code-assessable development
- the full range of current land zonings will remain as they are.

[Visit the NSW Parliament website](#) to download the Bill and the [Minister's second reading speech](#).

---

## Renewing your accreditation

Your accreditation is your ticket to practice - renew it before it expires!

- It's your responsibility to submit your renewal form before the due date, making sure it's complete, correct and with all supporting information.
  - We'll send you a reminder 60 days before your accreditation is due to expire (if you submit your renewal too early, the information is likely to become outdated closer to the due date).
  - **If you don't submit your form on time** and your accreditation expires, you must stop practising as a certifier. Within three months of your accreditation having expired, you may ask for it to be reinstated under clause 13.2A of the [Board's Accreditation Scheme](#) (on page 9). However, this will leave a gap in your accreditation (a period when you'll lose income by not being able to work as a certifier).
  - The easiest way for you to submit your renewal is via email to [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au). You can also email or call us on 02 9873 8537 for help.
  - [Download the renewal form from our website](#).
-

## Electronic Housing Code: calling private certifiers!

The Department of Planning and Infrastructure seeks [expressions of interest from private certifiers to join the Electronic Housing Code](#). Applications are due by 30 December.

For more information or a demonstration of the system, [contact Nicholas Williams](#) (02 8575 4054).

---

## ADT to merge with other tribunals

From January 2014 a new NSW Civil and Administrative Tribunal (NCAT) will be the gateway for tribunal services.

The functions of the Administrative Decisions Tribunal will be transferred to NCAT, along with those of more than 20 other NSW tribunals.

[Visit the NCAT website for details.](#)

---

## Energy-efficient homes = big savings

Introduced to the Building Code of Australia in 2003, the energy efficiency provisions for houses are aimed at reducing greenhouse gas emissions. This is achieved through reduced energy use, which in turn delivers financial benefits to families.

The Australian Building Codes Board has a new '[infographic](#)' that shows the big difference energy efficiency has made to our homes.

[Visit the ABCB website to see the infographic](#) and associated tools for energy efficiency practitioners.

---

## BASIX: building professionals' & homeowners' perspective

The University of Canberra has released a new report about BASIX from the perspective of building professionals and homeowners.

The University conducted separate surveys of building professionals (such as BASIX Thermal Comfort Assessors) and homeowners. Overall, respondents thought BASIX has been effective in reducing residential energy and water consumption, but saw some room for improvement.

[Download an overview of \*Building professionals' and homeowners' perceptions of BASIX\*](#) or [email the BASIX helpdesk to request the full report](#) (requests will be forwarded to the University).

---

## Training & resources

### Events & training

[Master Builders Association CPD seminar](#), 28 November, Rosehill. Topics include contract pitfalls, asbestos management, and BASIX/ hot water.

### Vacancy: Senior Building Codes Officer (DP&I)

Want to help develop policy and reform building standards? Apply by 3 November to be considered for the role of Senior Building Codes Officer, Building Systems Unit, Department of Planning & Infrastructure.

Apply via [jobs.nsw \(job reference number 0000228E\)](#). For more information [contact Michael Said](#) on 02 8575 4014.

### Resources

- [Building a Better Future](#) has dozens of stories submitted by women who work in building-related industries. The stories offer insight to anyone involved in building - you may consider submitting your own story to encourage young women just starting out in their career.
- [The latest National Survey of Building and Construction](#) (results for September 2013) is now available from the Master Builders Association of Australia.
- [Online seminars about the 2013 National Construction Code](#) are available from the Australian Building Codes Board. Adobe Flash is all you need!

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## 8 November 2013

### A5 (Ports SEPP) accreditation - EOIs due 22 Nov

[State Environmental Planning Policy \(Port Botany and Port Kembla\) 2013](#) commenced on 31 May 2013.

The SEPP identifies certain structures as complying development that are not classifiable under the Building Code of Australia (unclassified development). Some examples are rail-mounted cranes, ship loaders and conveyor belt systems, and bulk liquid storage tanks.

A **new A5 category of accreditation** allows certifiers to issue complying development certificates for unclassified development under the Ports SEPP, and act as the principal certifying authority.

**Potential applicants for A5 accreditation are invited to submit an expression of interest (EOI) by 22 November.**

A submission of an EOI isn't an application for A5 accreditation - we'll let you know when applications are open.

[Download the expression of interest invitation](#) for more information about A5 accreditation, what to include in your submission and how to submit it.

For more information, contact Jonathan Lynch, Team Leader Accreditation, on (02) 9873 8557.

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**Insurance up to scratch? It's up to you!**

Professional indemnity insurance is an important consumer protection measure, and you can't work as a certifier without it.

Your certificate of currency is proof that you are insured. You must send us this certificate at least seven (7) days before your insurance is due to expire.

Thank you to all the certifiers who sent in their certificates on time and with all required details. However, many certifiers have failed to do so. Other certificates lack important details that we need to assess whether your insurance meets legislative requirements.

### What do you need to do?

1. [Download the template for a certificate of currency from our website.](#)
2. Do not fill out the template yourself - give it to your insurer.
3. When you receive your certificate from the insurer, check it carefully to make sure all the details are included. Look for common omissions, such as the retroactive data, and whether the indemnity limit includes/excludes expenses.
4. Send us your completed certificate of currency. We MUST receive it at least seven (7) days before your previous certificate was due to expire.

The easiest way to send your certificate is via email to [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au).

### What if you dont submit your certificate of currency?

Due to ongoing non-compliance, we are adopting the following policy:

- if we dont receive your completed certificate of currency at least seven (7) days before your insurance is due to expire, you may be issued with a \$750 penalty notice
- if we dont receive your certificate before your insurance expires, your accreditation may be suspended.

### How well help out

Its your responsibility to send in your certificate on time, but well help out:

1. We'll remind you, before your insurance expires, to send us a certificate of currency (or to let us know that you weren't able to renew your insurance) by the required date. Make sure we have your current contact details so we can remind you.
2. We'll check to make sure you provide a certificate on time.

Also, keep in mind that your insurance and your accreditation probably expire on different days, so make sure that you take measures to stay current for both.

Need help? Just email us at [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au) or call (02) 9873 8537.

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## Planning Bill update

The Planning Bill 2013 was passed by the Lower House on 30 October and is now being debated in the Upper House.

In our [last issue](#) we listed some of the proposed reforms in the Planning Bill to support building certifiers and lead to improved work practices.

A [feedback report about the planning reforms](#) has just been released by the Department of Planning and Infrastructure. The report explains how the Government considered and responded to the 5,000 submissions received on the White Paper and Exposure Bills.

---

## BASIX commitments - don't rely on the site plan!

For many developments, the BASIX certificate is scanned and attached to the site plan.

The whole BASIX certificate might be included as one dedicated page, or each page of the certificate might be inserted into the relevant part of the site plan.

For example, BASIX commitments for thermal comfort may be inserted in the part of the site plan that shows building elevations (including glazing) or sections (where insulation may be indicated).

### So what's the big deal with this?

Sometimes, pages of a BASIX certificate are missing from the site plan, but this may not be apparent without careful scrutiny.

Also, a building designer may think that by scanning and attaching the BASIX certificate to the site plan, this removes the need to mark relevant details on the plan (such as the location of rainwater tanks). These details need to be marked so that a certifier can assess compliance for each BASIX commitment.

A scanned BASIX certificate may be reliable, but only if:

- **every** page of the BASIX certificate is included and is shown as one dedicated page of the site plan, AND
- **all** relevant details (e.g. rainwater tanks) are marked by icons and notation on other pages in the site plan.

You're entitled to insist on a minimum acceptable standard of documentation. Rather than assume a site plan contains all the BASIX commitments, check the original BASIX certificate submitted with the development application, and ask whatever questions you need to.

For more information, download the ['BASIX compliance audit program' report](#). This discusses the pros and cons of typical methods for including BASIX commitments in development applications.

---

## New strata laws

Anthony Roberts, Minister for Fair Trading, recently announced [changes to the laws affecting strata buildings](#). Here's a sample:

### Window safety

The [Strata Schemes Management Amendment \(Child Window Safety Devices\) Act 2013](#) is aimed at helping to prevent children falling from windows in strata buildings.

Owners' corporations have until 13 March 2018 to install window safety devices above the ground floor that limit windows from opening more than 12.5cm when the lock is engaged.

In 2011-12, 39 children aged nine or younger ended up in hospital after falling out of a window. You can [read more about window safety laws on the NSW Fair Trading website](#).

### Phoenix companies

Legislation will be amended to prevent phoenix companies, which can cause big problems for certifiers.

Sometimes a development company is established for a particular development and deliberately winds up after the building is finished (a phoenix company). If there are faults later on with the building and the company has disappeared, guess who the owner is likely to sue?

That's right - the certifier may be taken to court for something that's not his/her responsibility. This should be a thing of the past when the legislation is

amended.

To find out more, [download the Minister's speech about the proposed legislative changes](#).

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## Events & resources

### AIBS study tour of China 2-15 May 2014

[Registrations close 13 November](#) for a 12-day tour of the cities of Guangzhou, Shanghai, Tianjin, Beijing and Xi'an.

Delegates will visit a range of structures from skyscrapers to stadiums, plus the Guangzhou International Wooden House and Structure Fair 2014, and the China Prefab House, Modular Building, Mobile House and Space Fair 2014.

[Visit the AIBS website for details and registration information](#).

### Pittwater Council free information night for builders

Wednesday 27 November, 6-9pm, Newport Community Centre. Free BBQ from 5.30pm!

Some of the topics include:

- approvals and certification
- energy efficiency
- secondary dwellings as complying development
- swimming pool regulations.

**Book your spot** by calling (02) 9970 1194.

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Building Professionals Board  
PO Box 3720  
Parramatta NSW 2124

Ph (02) 9873 8537  
Email [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au)



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## 22 November 2013

### Certification under Ports SEPP

#### A5 accreditation: EOIs due TODAY

Expressions of interest are due today (22 November) for our new A5 category of accreditation.

A5 certifiers will be able to issue complying development certificates under [State Environmental Planning Policy \(Port Botany and Port Kembla\) 2013](#), for developments that can't be classified under the Building Code of Australia (BCA) - things like rail-mounted cranes and loaders.

An expression of interest isn't an application for accreditation - we'll let you know when applications are open.

[Download the expression of interest invitation](#) to get started, or contact Jonathan Lynch, Team Leader Accreditation, on (02) 9873 8557.

#### Business as usual for A1-A3 certifiers

A1, A2 and A3 certifiers already issue complying development certificates under the Ports SEPP, for developments that can be classified under the BCA (such as food premises or office buildings).

The new A5 category is specifically for developments that can't be classified under the BCA.

---

**Advice line now open 5 days a week!**

Our advice line for specialised and technical advice is now open Monday to Friday, 9:30-11:30am.

Just call (02) 9873 8537 and ask to speak to one of our senior investigators.

Got a general enquiry? Call at any time during office hours or email [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au).

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## Avoid the penalty: get your insurance right!

Most private certifiers manage to send us a complete certificate of currency for their professional indemnity insurance.

But... others don't. We're still getting some incomplete certificates, even though our website has a [template to give to your insurer](#).

Check that your insurer has completed EVERY part of the certificate before you send it to us. If we don't have all the required information, *you* may be penalised, not your insurer! Penalties may include a fine and/or suspension or cancellation of accreditation.

It's simple to avoid a possible penalty by looking out for common pitfalls....

- Your certificate must list two limits of indemnity: one for all claims and one for a single claim.
- Your certificate must specify whether each limit of indemnity is inclusive or exclusive of expenses, for both limits of indemnity.
- Your certificate must have a retroactive date.

[Download the template for a certificate of currency](#) to give to your insurer (don't fill it out yourself).

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## Your say: energy efficient homes

The new National Energy Efficient Building Project has been launched to improve:

- energy efficiency in homes and commercial buildings

- application of the energy performance requirements in the National Construction Code
- knowledge and capacity in the building industry.

Consulting firm pitt&sherry and Swinburne University are keen to hear from you. Take part in facilitated workshops (starting 25 November), an online survey, meetings and interviews.

To participate or for more information email [consultation@pittsh.com.au](mailto:consultation@pittsh.com.au).

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## Events, training & resources

### HIA industry trade nights 27 and 28 November

The [Housing Industry Association's](#) industry trade nights feature presentations and discussions of important issues for members.

Industry trade nights in [Nowra](#) (27 November) and [Wollongong](#) (28 November) will look at what the NSW planning reforms mean for you.

### UDIA Christmas events

The [Urban Development Institute of Australia](#) has two events in Sydney on 28 November: a [Christmas Luncheon](#) with guest speakers, and an [end of year function](#). If you can't make it to Sydney, a [Hunter Christmas Luncheon](#) is on 2 December.

### Exhibition: *Brilliant Ideas for the 21st Century* - until 29 November

[LuminoCity](#) (Red Centre, West Wing, UNSW Kensington campus) is all about imagining, testing and debating the 21st century city. LuminoCity showcases the work of students of the built environment, and also offers digital light projections, dance and tours.

[Go to the UNSW website for details](#) and get in quick because it all closes on 29 November.

### AAC seminar 3 December

On 3 December, the Association of Accredited Certifiers will run an afternoon seminar in Sydney about:

- timber in high-rise buildings and fire-prone areas
- lightweight fire-rated construction.

[Visit the AAC website for session and registration details.](#) 3 CPD points apply.

### Free lecture: planning for health and sustainability, 4 December

Affiliate Professor Andrew L. Dannenberg (University of Washington) will present a free public lecture on 4 December in Sydney.

[How can the design of our cities support human health and sustainability?](#) will explore different approaches to planning and development. RSVP by 29 November.

### Strata law: proposed reforms

NSW Fair Trading has released the [Strata and Community Title Law Reform position paper](#), with 70 proposed reforms to strata title law.

The reforms focus on everyday things that people care about, like more democracy in decision-making, and follow more than two years of consultation with communities and industry representatives.

### Asbestos Awareness Month

November is [Asbestos Awareness Month](#). Check out the [website](#) for legal information, disposal and safety tips, and a helpful image gallery.

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State of New South Wales through the Building Professionals Board.

Building Professionals Board  
PO Box 3720  
Parramatta NSW 2124

Ph (02) 9873 8537  
Email [bpb@bpb.nsw.gov.au](mailto:bpb@bpb.nsw.gov.au)  
[www.bpb.nsw.gov.au](http://www.bpb.nsw.gov.au)



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## 6 December 2013

### Keep up the good work!

While debating the Planning Bill (see [article below](#)), Upper House MPs had some good things to say about certifiers, the Board, and the future of building certification in NSW.

MPs recognised the terrific private certifiers who work with professionalism and integrity, making sure that building standards and conditions of consent are met.

The Board was acknowledged, both as the appropriate regulatory authority, and for our focus on ensuring that certifiers conduct themselves with probity and integrity.

MPs also said that planned legislative reforms will support certifiers and councils, and will help to increase community confidence.

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## 2012-13 annual report

The [Building Professionals Board 2012-13 annual report](#) is now available and highlights our achievements, future priorities and challenges.

If you like statistics, there's plenty to interest you. You might be keen to know how the number of certifiers has changed, or how many investigations we completed and the resulting disciplinary actions.

As certifiers, you contributed to the most home approvals in Sydney in a

decade. In 2012-13, NSW also had higher approvals than every other state except Western Australia.

### More information

- [Building Professionals Board 2012-13 annual report](#) (pdf file)
- [Department of Planning and Infrastructure 2012-13 annual report](#)

---

## Planning Bill on hold till 2014

After two *really* long debate sessions in Parliament last week, the Upper House passed the Planning Bill with significant amendments.

The debate will resume next year in the Lower House. In the meantime, the Government will hold further targeted consultation on the amended Bill.

A full [schedule of amendments to the Planning Bill](#) is on the NSW Parliament website. Major amendments include:

- removing the proposal for code-assessable development (development that meets agreed, predetermined codes)
- reinstating a provision for affordable housing
- giving economic, environmental and social factors equal weight when assessing proposed mines, rather than economic benefits having primacy.

One defeated amendment proposed that an applicant would not be allowed to choose a private certifier. Instead, the Board would independently appoint a certifier to the development from a pool of certifiers. You can [read the transcript of this interesting debate on the NSW Parliament website](#).

### A5 certifiers & pool inspectors

Accreditation of A5 (Ports SEPP) certifiers and pool safety inspectors is going ahead regardless of the status of the Planning Bill. These categories of accreditation don't rely on the Planning Bill being adopted by Government.

However, the Planning Bill provides for the accreditation of additional building professions, such as building designers and more types of engineers. The status of this reform is uncertain, but we'll keep you posted.

---

## A5 (Ports SEPP) update

Thanks to everyone who responded to our call for expressions of interest for the new A5 category of accreditation - we received a fantastic response.

A5 certifiers will be able to issue complying development certificates under [State Environmental Planning Policy \(Port Botany and Port Kembla\) 2013](#), for developments that can't be classified under the Building Code of Australia (BCA) - things like rail-mounted cranes and loaders.

Our recent workshop with major stakeholders was really useful and helped to reach a common understanding of the required knowledge, qualifications and experience for A5 certifiers

Watch this space, because we'll soon start accepting applications for A5 accreditation.

### Tip for A1-A3 certifiers

A1, A2 and A3 certifiers may already certify Ports SEPP developments that **can** be classified under the BCA. The A5 category is for developments that **can't** be classified under the BCA.

---

## John Gill retires

Last week the Board farewelled a very valued staff member when John Gill retired after 41 years in the public service. John is rightly held in the highest regard for his dedication and knowledge, and for his friendly, thoughtful advice.

We'll miss John and wish him all the best for a wonderful retirement!

---

## Events, training & resources

### Your email may not have reached us

Over the last month or so, you may have received an email from us that came from 'name@heritage.nsw.gov.au' rather than 'name@bpb.nsw.gov.au'. If you replied to the @heritage address, we may not have received your email, and you may not have received a 'bounce'/ undeliverable message.

**If you suspect your email didn't reach us, please re-send it and/or call us on (02) 9873 8537 to check it was received.** Our IT gurus are working to fix the problem as soon as possible.

### What's being planned for my area?

The website for [NSW joint regional planning panels](#) has a handy interactive map that shows what's planned for your area.

Joint regional planning panels provide independent, merit-based decision-making on regionally significant development. Applications are first assessed by a local council and then determined by the regional panel.

Also, the Minister may appoint a regional panel as the relevant planning authority for certain developments, or ask the panel to conduct a pre- or post-gateway review.

### Homeowners take risks with unlicensed tradies

Homeowners are prepared to take some risks by using unlicensed tradies, according to a recent survey by NSW Fair Trading.

For some work, such as electrical work, homeowners are more likely to check a tradesperson's licence and referees. However, many homeowners are prepared to accept the risk of using an unlicensed tradie for jobs like landscaping or joinery, which are seen as lower risk.

[Visit the NSW Fair Trading website to download the survey report.](#)

### Public register for NOLS occupations

The national licensing register is a vital part of the National Occupational Licensing System (NOLS), which is due to start in 2014 and is being developed by the [National Occupational Licensing Authority](#).

The register will help everyone find information about licensed tradespeople in NOLS occupations. Search results will integrate with Google maps and a voice command capability is planned for mobile phone users.

Check out a [video preview of the public national licensing register](#).

### Call for faster NOLS rollout

NOLS needs to get going as soon as possible, according to the Australian Government's Productivity Commission.

The Commission's draft *Geographic Labour Mobility* report also calls for more streamlined governance and institutional arrangements for NOLS.

Differing state policies for occupational licensing can make it hard for certifiers and other building professionals to work interstate. While the *Mutual Recognition Act* 1992 has helped, there's still room for improvement.

You can [download the \*Geographic Labour Mobility\* report](#), and make a written submission by 7 February 2014.

### AIBS online learning

The Australian Institute of Building Surveyors offers online learning on topics including disabled access, ABCB updates 2013, and how better stair design can reduce accidents. CPD points apply.

[Visit the AIBS website for more information and to register.](#)

### Resolving business disputes, 14 December

The Housing Institute of Australia has a one-day course about resolving business disputes, on 14 December in Castle Hill.

[Visit the HIA website for more information and to register.](#)

### Government Gazette: online only from 1 Jan

From 1 January, the NSW Government Gazette will be online only, available at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au). Councils will be able to lodge Gazette notices by emailing [nswgazette@pco.nsw.gov.au](mailto:nswgazette@pco.nsw.gov.au) or calling (02) 9321 3356.

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PO Box 3720  
Parramatta NSW 2124



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# 20 December 2013

## Merry Christmas from the Board

2013 has been a year of change for certifiers. But it's also been a year of anticipation, given that NSW is on the cusp of big planning reforms and that the Board has started great new initiatives to provide better practice advice and improve the standard of certification.

Thank you for your contribution to various consultations during the year. Your feedback is welcome at any time, and helps us plan for the future and provide advice on major issues.

In Parliament, the Upper House made substantial amendments to the Planning Bill 2013, and the debate will resume in February in the Lower House. There are also other law reforms coming for strata, home building, local government, and swimming pools and spas.

We are expanding our accreditation scheme with more categories and, potentially, additional building professions. And to provide you with better services, we're revamping our website to make it easier and faster to find what you need.

But that's next year. Plenty has happened this year! For example:

- We welcomed an all-new Board in June (except Robert Marinelli, who was appointed in 2012).
- We completed the transition to a single accreditation scheme for both council and non-council certifiers.
- We helped to implement changes to the Ports SEPP by starting the process to accredit certifiers under our new A5 category.
- We introduced a new 'conflict of interest' exemption to allow council certifiers to certify developments that are designed or built by other council staff.

The next BP Bulletin will be published in late January. Merry Christmas, and have a safe and happy holiday.

### Christmas shutdown 25 Dec - 5 Jan

24 December is our last day in the office for 2013, and we'll be back to help you on 6 January.



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## Complying development changes from February

Important changes to the State Environmental Planning Policy (Exempt and Complying Development) (formerly known as the Codes SEPP) will simplify planning approvals and reduce red tape.

From 22 February 2014:

- there will be more types of exempt development (around 80 types)

- it will be easier to get fast-track approvals for single storey backyard studios, home food production businesses, and industrial or commercial buildings
- fast-track approvals will be available for homes or extensions partially built to one side boundary, for lots between 8m - 12.5m (currently only allowed for lots between 8m - 10m)
- it will be easier to do internal commercial building alterations or change a buildings use without planning approval
- there will be stronger rules for privacy screens, earthworks and significant trees, to minimise impacts on neighbours and protect the environment
- residents within 20m of a complying development in a residential area will need to be notified 14 days before the application is approved, and seven days before construction starts.

We're developing supporting information, guidelines and other resources to help you fully understand and adapt to the changes.

Early next year, the Department of Planning and Infrastructure will hold information sessions across NSW. We'll attend most sessions to answer your questions, and the sessions will be announced on the Department's website and in the BPBulletin.

The Department's website has [more information about the State Environmental Planning Policy \(Exempt and Complying Development\)](#).

---

## NOLS no more

The [National Occupational Licensing Scheme](#) will no longer be developed, as decided by the Council of Australian Governments (COAG) on 13 December.

COAG made the decision after extensive consultation revealed concerns with the potential costs and proposed approach for the scheme. Instead, States and Territories will work together via the [Council for the Australian Federation](#), to develop other ways to make it easier for licensees to work interstate.

One option is for mutual recognition arrangements to operate more like a drivers licence - your accreditation in NSW would let you work as a certifier in another state, without having to waste time and money applying for a second licence - good news for those of you who work across state borders.

The [National Occupation Licensing Authority](#) will be dissolved from early 2014, and [COAG's communique](#) has more information.

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## Practice advice now easier to find

You've said that the BPBulletin is great, but it's hard to find specific practice advice from past issues.

To help address this we now have an [index of practice advice \(and related information\) from past BPBulletins](#). It's just a first step to make our advice accessible, all from one location.

Things to keep in mind:

- The index is a work in progress and only covers the last 12 months of the BPBulletin so far.
- Practice advice is general. It doesn't cover all circumstances and you should seek legal advice as appropriate.
- Practice advice may be outdated if the legislation has changed since it was issued.
- Unfortunately, the search function on our website doesn't search the BPBulletin.

[Access the subject index of practice advice from past BPBulletins](#), and please [contact us](#) to give feedback.

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## We welcome your questions

We've heard anecdotally that some certifiers are reluctant to seek our advice on interpreting the legislation, because they think we'll see their question as a weakness and start an investigation against them.

Quite the opposite - we know that there are some grey areas in the legislation that are open to interpretation and can be hard to work with. Odds are, you're not the only certifier with questions about a certain part of the legislation.

So rest assured that we won't investigate you just for asking a question! In fact, asking questions shows that you are diligent and want to improve your knowledge.

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## Have your say

## BASIX targets

The Department of Planning and Infrastructure has proposed new water, energy and thermal comfort targets for the Building Sustainability Index (BASIX), for new houses and apartments.

The proposed targets reflect changes in design and technology, and meet sustainability commitments in the Building Code of Australia.

[Go to the BASIX website for more details and to have your say.](#) Comments close 31 January.

You can also contact the Department by calling 1300 305 695 or emailing [basixreview@planning.nsw.gov.au](mailto:basixreview@planning.nsw.gov.au).

## CPSISC training packages

The Construction and Property Services Industry Skills Council (CPSISC) invites your feedback to redesign the training packages for *Construction, Plumbing and Services*; and *Property Services*, after [new standards for training packages](#) were introduced in 2012.

You can help determine how the redesign may impact on certifiers and related professions. Simply [sign up to the CPSISC website to have your say](#).

## Win an iPad mini: energy efficiency building survey

Take the [online survey for the National Energy Efficient Building Project](#) by 8 January, for your chance to win an iPad mini with Retina display.

Already completed the survey? No worries - to enter the draw, email your contact details and the rough date you did the survey to [consultation@pitt&sherry.com.au](mailto:consultation@pitt&sherry.com.au). Your survey responses will remain anonymous (because they won't be linked to your email).

[Take the online survey](#) or [read more about the National Energy Efficiency Building Project](#).

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## Events, training & resources

### Updated AS: fixed platforms, walkways, stairways & ladders

AS 1657-2013 (*Fixed platforms, walkways, stairways and ladders - Design, construction and installation*) has been updated to reflect changes in the industry, Work Health Safety regulations and the National Construction Code.

[Visit the SAIGlobal website for more information](#) about AS 1657-2013.

### [PIA 2014 congress: early bird rego closes 23 Dec](#)

Join other planning professionals at the Planning Institute of Australia's 2014 congress, to be held in Sydney from 16-19 March.

Hear from national and international plenary speakers and connect with your peers to explore new ideas, tools and technologies designed to improve planning outcomes.

[Visit the PIA congress website for more information and to register.](#) Early bird registration closes on 23 December.

### [Certificate IV in Project Management](#)

Registrations are open for the Certificate IV in Project Management, offered by the Urban Development Institute of Australia (NSW). This online course will run from 17 March - 6 August 2014.

You'll learn project management skills for the property development industry; for example, identifying project scope; managing time, cost and quality; contract negotiation; team engagement; and communication.

[Visit the UDIA website to download the course schedule.](#)

### [Development Essentials training course](#)

Registrations are open for the Development Essentials training course, run by the Urban Development Institute of Australia (NSW).

You can attend all four course modules, or just the ones you need:

1. identifying development opportunities & financial feasibility (18 March)
2. understanding the regulatory environment (25 March)
3. managing a project (1 April)
4. sales and marketing (8 April).

[Visit the UDIA website for information and to register.](#)

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