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Countdown to consultation

The Board is preparing for a busy month of consultation on the future scope of the certification system from 13 February to 9 March in 12 locations across NSW.

The consultation will include two sessions:

- A morning session (10am) that will give all certifying authorities (public and private) and other practitioners such as civil, electrical, fire safety and mechanical engineers, access consultants, fire services practitioners, planners, architects and building designers the chance to get involved in influencing the future scope of the certification system.

Other interested parties such as industry groups, state agencies and members of the public are also invited to attend.

- An afternoon session (1.30pm) with council accredited certifiers to discuss access to appropriate qualifications and experience, proposed possible future directions and options for expanded continuing professional development from 2013.

This week, we confirmed venues and locations, and launched an online registration form. You can view this information [here](#).

At the commencement of consultation, we will also launch an online survey so that everyone can have their say on the future scope of the certification system, even if they are unable to attend a session.

News from the Department of Planning & Infrastructure

Amendments to transitional arrangements - Part 3A repeal

The Department released a Planning Circular (PS 12-001) on 10 January 2012 concerning amendments to the *Environmental Planning and Assessment Regulation* to clarify the ongoing status of concept plans approved under Part 3A of the *Environmental Planning and Assessment Act 1979* and to confirm concept plans can be modified.

- [View the circular](#)

The Amending Regulation:

- clarifies the circumstances under which an approved concept plan applies to development which is longer subject to Part 3A of the Act
- gives full effect to any previous determination requiring future stages of a project to be subject to Part 4 or Part 5
- clarifies that environmental assessment requirements that may have been identified when a concept plan was approved do not constitute environmental assessment requirements for the purposes of a project remaining subject to Part 3A of the Act
- clarifies that an approved concept plan can be modified irrespective of whether the relevant project remains subject to Part 3A by operation of Schedule 6A of the Act - ensuring concept plans that apply to development and are now subject to assessment under Part 4 can be modified
- extends lapsing provisions for concept plan approvals to five years after the repeal of Part 3A unless any part of the project is physically commenced before that date or the concept plan is subject to a condition that provides for the approval to lapse on an earlier or later date.

Granny flats

Following an enquiry from a certifier, the Department has amended its Supporting Secondary Dwellings (granny flats) fact sheet to clarify that the creation of some secondary dwellings MAY involve a change of classification of a building under the Building Code of Australia (BCA).

Whilst this does not affect the ability to assess the proposal as complying development, certifying authorities must ensure an assessment is made against the new classification requirements under the BCA.

- [View the fact sheet](#)

Annual Report 2010-11

The Department released its Annual Report for the previous financial year towards the end of 2011. The Annual Report incorporates the Annual Report of the Building Professionals Board.

- [View the Annual Report](#)

General Commercial and Industrial code

Definitions

In November 2010, the Board, in conjunction with the Department of Planning and Infrastructure, issued a [Guide to the General Commercial and Industrial Code](#).

Recently, the Board has been made aware of examples where an incorrect land use definition has been used by a certifier issuing a change of use approval under the Codes SEPP.

As per Section 3 of the Guide, an expression or word used in the Codes SEPP will have the same meaning as it has in the Standard Instrument unless it is otherwise defined in the Codes SEPP. Further, as clause 1.5 of the Codes SEPP contains defined words, certifiers should check the definitions within the Standard Instrument when considering and assessing complying development certificate applications.

Education and training

Update on the Vocational Graduate Diploma of Access Consulting

Work on the Vocational Graduate Diploma of Access Consulting is continuing. By the end of 2011, two stakeholder workshops had been held in November, with some 200 comments received. The Project Steering Committee addressed these comments and completed writing the competencies before Christmas.

These competencies were edited into a Competency Training Package and are in the process of being forwarded to State and Territory Education

Departments for national endorsement, a process expected to be complete by mid 2012.

The second stage of the program is being funded by the Australian Building Codes Board (ABCB). Stage two will proceed concurrently with the endorsement process. Plans remain on track to allow for advertising and for training to begin at the beginning of 2013.

[ABCF support for the review of the CPC08 \(building surveying qualifications\) training package](#)

The Australasian Building Certification Forum (ABCF) is a forum with representatives from all state and territory authorities responsible for the regulation of building surveyors. In his role as the Chair of the ABCF, the Boards director, Neil Cocks, has offered the Forums support to the review of the CPC08 training package, currently being undertaken by the Construction & Property Services Industry Skills Council (CPSISC).

In providing its support, the ABCF has raised a number of factors that should be considered in the review, including:

- ensuring the overall training suite provides an articulated pathway for building surveyors for both new starters in the industry and those with extensive experience, but no qualifications
- ensuring training packages reflect industry needs and current skill shortages
- examining how the work of building surveyors has changed and continues to adapt as certification becomes more specialised.

The ABCF has offered to assist the CPSISCs review. Further updates to this process will be included in the BPBulletin.

[Website updates](#)

The Boards Disciplinary Register is now updated on the web following the 5 December 2011 Disciplinary Committee meeting.

- [View the Disciplinary Register](#)

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Update on upcoming consultation

Over 500 people have registered to attend the Boards consultation into the future scope of the NSW certification system and the accompanying sessions for council accredited certifiers. This consultation is taking place throughout February and March across NSW.

To ensure you're enrolled to attend, please register online by clicking on the link below. This will take you to an online survey, hosted externally by Zoomerang.

This survey acts as a registration form - please use the survey to identify which session/s you wish to attend, the location you will be coming too, and provide your contact details. Please note you will not receive an email confirmation.

- [Visit the survey](#)

Sydney CBD and Parramatta sessions full

The 10am sessions in Sydney (5 March) and Parramatta (24 February) into the future scope of the certification system are already full. People who had hoped to attend either session can register their interest in a further Sydney-based session by emailing policy@bpb.nsw.gov.au.

An additional session will be held if there are enough numbers.

Reminders and updates

[Penalty infringement notices](#)

The Board has commenced serving Penalty (Infringement) Notices (PINs) in cases where a complaint has been made against a certifying authority and the Board is satisfied that an offence has occurred under the provisions of the BP Act or the EP&A Act or their respective regulations.

A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay a fine within the conditions as described in the PIN.

A PIN provides an alternative means to disciplinary action prescribed in Part 3 of the BP Act. It is intended as a deterrent against repeat conduct and provides an opportunity for certifying authorities to review their practice in relation to the offence the subject of the PIN. The issuing of a PIN will not be published on the Boards public register as a disciplinary action.

PINs may be served by the Boards authorised officers for minor offences. The fines attached to a PIN are between \$750 and \$3000.

If multiple PINs are served for the same offence over a period of time, the Board will consider further disciplinary action under Part 3 of the BP Act or may commence legal proceedings.

Power to serve PINs is conferred by section 92 of the BP Act and section 127A of the EP&A Act. If a person pays a penalty notice for an offence, that person cannot have proceedings commenced against them under section 93 of the BP Act, removing the need for the offence to go to court.

Reminder - brochures

The Board retains copies of the consumer brochures distributed to councils in 2011. Any councils wishing to order further copies of the brochures should contact the Board at bpb@bpb.nsw.gov.au and specify how many hard copies are required of each brochure.

- View the [Guide to the Building Approvals Process](#)
- View the [Guide to working with a Principal Certifying Authority \(PCA\)](#).

Home warranty insurance changes

The threshold for home warranty insurance increased from \$12,000 to \$20,000 this week.

- [Find out more from NSW Fair Trading.](#)

Opportunities for feedback

Swimming Pools Act 1992 - Review of discussion paper

The NSW Government is seeking feedback on proposed amendments to the *Swimming Pools Act 1992*. The amendments aim to increase the safety of very young children around backyard swimming pools.

The *Swimming Pools Act 1992 Review Discussion Paper* has been released to assess support for the proposed amendments, including whether backyard swimming pools should be registered and whether pool barriers should be inspected to better ensure child safety. A copy of the Discussion Paper is available at www.dlg.nsw.gov.au.

The closing date for submissions is 5pm on Friday 24 February 2012. Submissions can be lodged using the following methods:

- Email: swimmingpools@dlg.nsw.gov.au
- Post: Swimming Pools Act Review, Division of Local Government, Locked Bag 3015, Nowra NSW 2541
- Fax: 02 4428 4199

Review of NSW strata and community title laws

The NSW Government is commencing a comprehensive review of NSW strata and community title laws in 2012. To support this major project, an online community consultation on Open Forum has been opened to give individuals and businesses affected by the reforms an opportunity to voice their opinions, share their experiences, raise specific issues or concerns and suggest possible solutions.

The consultation is open to the general public as well as members of the strata community, including owners, tenants, strata agents, developers, surveyors, valuers, real estate agents, lawyers and academics.

The online forum will close on 29 February 2012.

- [Go to the online forum](#)

News from the Department of Planning & Infrastructure

[Join the Electronic Housing Code project](#)

The Department of Planning & Infrastructure is looking for additional private certifiers to join the Electronic Housing Code (EHC) project.

This project is focused on the development of an online system for the electronic preparation and lodgement of complying development applications under the NSW Housing Code.

If you're interested in being part of the EHC project, you need to fill out an Expression of Interest (EOI) ([view the relevant documentation](#)).

Councils currently involved in the Electronic Housing Code project should also submit an Expression of Interest (EOI) if they wish to include other local government areas to which they provide certifying services.

The Expression of Interest process closes on 17 February 2012 and late applications will not be accepted. Final decisions on who will be selected will be announced in March 2012.

Rural Housing Code

The Rural Housing Code, part of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, commenced in February 2011.

The Rural Housing Code sets development standards in the planning process to help reduce the cost and time involved in building homes in rural NSW. The code aims to assist regional NSW residents navigate the complying development certificate process.

You can view the Department of Planning and Infrastructures Guide to Complying Development under the Rural Housing Code [here](#).

Comment sought on extending rules for educational development

The Department has placed a draft amendment to State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP) on exhibition. The exhibition is designed to hear the community's views on the continuation of current planning provisions applying to development proposals by public and private education bodies.

Both public authorities and non-Government proponents are currently able to undertake development with consent in most rural zones as well as all residential, commercial, and special purpose zones under the Infrastructure SEPP.

Applying the provision to non-Government schools originally commenced on a trial basis in February 2009. This is due to expire on 20 February 2012.

Continuing the current provisions beyond 20 February would ensure independent schools are on an equal footing with public schools in terms of State planning provisions.

The draft SEPP amendment can be accessed at www.planning.nsw.gov.au/onexhibition - click on Draft Policies and Plans. Comments and submissions must be lodged by Wednesday 8 February 2012.

ABCB news

National Construction Code 2012: information sessions

The Australian Building Codes Board (ABCB) is finalising updates to the 2012 National Construction Code (NCC), which will take effect on 1 May 2012.

Presenters from the ABCB will hold information sessions for building and plumbing industry practitioners to explain the changes that will come into effect.

Amendments to the Building Code of Australia (BCA) will be covered during the morning session (9.30am to 12.30pm), while amendments to the Plumbing Code of Australia (PCA) will be covered during the afternoon session (2.00pm to 4.30pm). Both sessions will feature a presentation by Standards Australia on recently amended Australian Standards.

Information sessions will be held in capital cities across Australia, including in:

- Canberra on 21 February at the National Convention Centre and
- Sydney on 6 and 7 March at the Sydney Masonic Centre.

Visit the ABCB website for registration details www.abcb.gov.au.

Training modules

The latest addition to the ABCB suite of training modules (Awareness Resource Kits) has been released.

Module 5: Understanding the Disability Access Provisions can be viewed [here](#).

Accreditation exam

The next accreditation exam will be held at the Boards offices in Parramatta next Tuesday 7 February. Further dates will be advised through the BPBulletin.

To register to undertake the Boards accreditation exam, please call (02) 9895 5950.

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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) 9895 5950
Fax: (02) 9895 5949
Email: bpb@bpb.nsw.gov.au



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2012 consultation

First week of sessions underway!

The Board has held the first of its consultation sessions, with visits to Ballina on Monday, Port Macquarie on Wednesday and Tamworth today.



Sessions have been well attended, with some of the main issues including:

- principal certifying authorities are being expected to be expert in all elements of a building
- accountability of trades, installers, and engineers and the need for increased accreditation

- consumer knowledge of the role of building surveyors and whether this role should be clarified in legislation
- limits to the responsibility of certifiers when undertaking inspections
- defects occurring in all classes of buildings
- the quality of certification provided other building practitioners and reliance on unaccredited persons
- increased rate of litigation against certifiers
- ambiguous conditions of development consent
- design documentation that is often insufficient to make appropriate assessments
- lack of consistency, out clauses, referencing of old standards in certificates and the need for standardisation
- poor site supervision by builders
- differences in statutory liability between certifiers and builders
- issues with owner/builders
- trade expertise
- the need to mandate certification of key systems and services by accredited persons
- failure of compliance certificates system under EP&A Act.
- how aspects of the certification systems in other states work better
- accreditation needs to be attractive and the process not so onerous to encourage new entrants
- inability of graduates to practise straightaway due to lack of experience
- availability of continuing professional development opportunities in regional areas
- recognition of the multiple other functions council certifiers have in local government.

Please remember to take a look at the background papers before attending your session. A new background paper for the afternoon sessions has been added to the website. All documents are available on the [dedicated page](#) on the Boards website.

Additional Parramatta session

An additional session will be held in Parramatta on Wednesday 7 March for those unable to attend earlier sessions. To register for this session, please visit the online survey at the link below.

- [Register here](#)

Have your say

[NSW Planning Review - extended deadline](#)

The Minister for Planning and Infrastructure has approved an extension of two weeks to the closing date for submissions to the [Issues Paper](#).

The new closing date for submissions on the Issues Paper is midnight Friday 2 March 2012.

Review of Planning for Bushfire Protections

The Rural Fire Service is reviewing the 2006 Planning for Bushfire Protection (PFBP). The first stage is to gather comments and suggestions on how to change the current edition for a better outcome.

You can download the current PFBP [here](#).

The closing date for submissions directly to the RFS is Monday 26 March 2012. Comments are invited on the content contained within the document as well as the layout and flow of information.

Submissions can be sent by mail, fax or email to:

- NSW Rural Fire Service, Planning and Development, Locked Bag 17, Granville NSW 2142
- Fax: (02) 8741 5433
- Email: development.assessment@rfs.nsw.gov.au

Home Building Act reforms

As the second phase of changes to the *Home Building Act* came into effect on 1 February 2012, NSW Fair Trading has released a consumer building guide.

By law, tradespeople must give consumers a copy of the consumer building guide before they enter into a contract for residential building work worth more than \$5,000.

The Consumer building guide has been revised to reflect the changes and will now be available as a pdf file on Fair Tradings [Consumer building guide](#) web page. Copies of the Guide dated before January 2012 are no longer accurate.

Traders should use the updated guide and updated contracts as soon as possible. However, traders will not be subject to enforcement action by NSW Fair Trading if they continue to use older versions of the guide, or contracts that include older versions of the guide, during the first half of 2012.

For more detailed information about the changes to the Act, go to the [Home Building Amendment Act 2011](#) page on NSW Fair Tradings website.

Practice advice

Timing of payment of contributions for CDCs

Conditions requiring the payment of a monetary contribution under section 94 or section 94A are imposed on complying development certificates (CDCs) after the council or accredited certifier has determined to issue the certificate.

Having determined to issue the certificate, the council or accredited certifier must impose a condition under Division 6 (Development contributions) of the EP&A Act. An accredited certifier must be authorised to impose such a condition through the council's contributions plan, which should specify the timing of the payment. The timing of the payment of a section 94 contribution or 94A levy is determined by the relevant council in its contributions plan.

Accredited certifiers must therefore familiarise themselves with the requirements of a council's contributions plan when issuing a CDC in that council area to ensure required conditions are attached to the CDC.

Signage

Dont forget that certifying authorities are obligated not only to place signage on-site but to provide the name of the person appointed as the Principal Certifying Authority, not just the company.

- [Refer to our information sheet for more information.](#)

LPI leading legislative reform of NSW addressing system

Land and Property Information has established a program called the Comprehensive Property Addressing System (CPAS) to implement best practice property addressing processes and a centralised address database for NSW. Underpinning the CPAS program is a legislative reform project.

The aim of the CPAS program is to create a centralised, comprehensive and official geo-coded address database for all of NSW.

- [Find out more](#)

40 years and still going strong

Many of you would have spoken to John Gill, the Boards Accreditation Officer. This week, John celebrated quite a milestone: 40 years in the public service!

John's career began on 14 February 1972 at the Department of Local Government in the examinations branch. Since then, John has worked in a variety of branches in the Department of Local Government and the Department of Planning. He's been with the Board since its inception.



John says that through the years he's worked with many, many people who have now become the certifiers who he talks to most days - and when asked to comment on how he felt about his 40 years in the public service he simply said: "It's a lot of time, isn't it?"

A big congratulations to John for making it this far. Whilst he says he is counting the days we think he has a bit left in him yet!

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2012 consultation

Today we're consulting in Wagga Wagga, the ninth destination for the Boards consultation across NSW. We've spoken to over 400 people on the future development of the building certification system, and what council accredited certifiers need to do to prepare for new accreditation requirements from March 2013.

Consultation began in Ballina on 13 February, and since then we've visited Port Macquarie, Tamworth, Dubbo, Katoomba, Parramatta, Wollongong and Queanbeyan.

Next week we're holding sessions in Sydney (5 March) and Newcastle (6 March) and we've also put on additional sessions in Parramatta for 7 March.

The proposed session for Broken Hill has been cancelled due to low registrations. We will provide the information package to all registrants and will consult with them directly by phone next week. We'll be in contact with registrants to confirm details.

How the sessions have worked

Sessions have been broken into brainstorming sessions, group sessions and open forums. In each session, people have been asked to identify issues in the areas of:

- construction defects
- certifying building design work
- certifying construction work
- insurance and liability.

The Board intends to have feedback on each of the sessions available on its website in the coming weeks. We'll let you know when they are online through editions of the BPBulletin.



The sessions also gave participants the opportunity to rate the importance of several aspects of the issues including:

- the kind of certification or verification required for building design and installation
- consistency of buildings with approvals
- how to deal with verification or certification from non-accredited people
- accrediting other building professionals
- mandatory insurance.

We will also report back on this material. We will also provide the opportunity for those unable to attend the sessions to rate issues of importance via an online survey.

Attendees to the afternoon sessions for council accredited certifiers have discussed and rated issues in relation to

- qualifications
- continuing professional development
- increasing the supply of accredited certifiers.

Both morning and afternoon sessions have ended with a plenary session, where members of the Board, Board staff and selected attendees summarise the main outcomes and issues of each day. This gives attendees the opportunity to ask questions on the issues discussed.



Next steps

As the consultation draws to a close, we will be collating the extensive feedback weve received from everyone who has attended.

Not only will this information be provided in future editions of the BPBulletin, we will also be communicating the key outcomes of this review and the consultation process into Stage 4 of the NSW Planning Review.

Stage 4 of the Planning Review sees the release of Policy Options in a Green Paper. It is anticipated that this paper will be published in April 2012.

Our thanks

We have been thrilled with the attendance and interest from everyone who has come along to the sessions. Your contributions are invaluable. The information were collecting from you all will greatly help us to develop options for the future development of the certification and accreditation systems.

News from the Department of Planning & Infrastructure

Streamlined approval process in rural areas

The NSW Government is streamlining the planning process for farmers and rural landowners wanting to build a home, shed or farm building on their

property, making it easier to gain approval in as little as 10 days.

For the first time, rural landowners can now access step by step information online, to guide them through the process of having a house or farm building approved as complying development.

The new Rural Housing Code User Guide, released by the Department of Planning and Infrastructure, sets out the steps to follow and the criteria for an application to qualify as complying development, helping to walk rural landowners through the process.

- [View the new user guide](#)

Local Development Monitor

The Department has released the 2010-11 Local Development Performance Monitoring report.

The report shows that:

- development application (DA) determination times averaged 68 days in 2010-11, up from 67 days in 2009-10
- State agencies took 47 days to comment on DAs up from 43 days in 2009-10
- more than one third of DAs had their assessment suspended due to incomplete information from the applicant the same proportion as in 2009-10
- the overall number of development proposals fell by 2,745 in 2010-11, although the value of development activity increased by \$1.23 billion
- 18.5 per cent of developments were approved via the fast-tracked complying development approach.

We will provide an analysis of the certification results included in the Monitor in a future edition of the BP Bulletin.

- [View the Local Development Monitor](#)

Premises Standards update

The Disability (Access to Premises - Buildings) Standards (the Premises Standards) and accompanying changes to the Building Code of Australia (BCA) commenced in May last year.

Part 4 of the Premises Standards outlines exceptions and concessions, including that it is "not unlawful for a person to fail to comply with a

requirement of these Standards if, and to the extent that, compliance would impose unjustifiable hardship on the person."

The Board has updated its Guide to applying for an unjustifiable hardship exemption in NSW and has released a new Practice Advice.

New application forms will be finalised and on the Boards website next week visit the [Premises Standards page](#) to download these forms from next week.

- [View the updated Guide](#)
- [View the practice advice](#)

NSW Planning Review

Today is the last opportunity for people to comment on the NSW Planning Review Issues Paper. The Board will be providing feedback to the Issues Paper keep your eye out for a copy of our feedback on our website over the coming days.

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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) 9895 5950
Fax: (02) 9895 5949
Email: bpb@bpb.nsw.gov.au



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2012 consultation

Consultation wrap up

We recently finished our extensive program of consultation with a second session in Parramatta and a teleconference with Broken Hill.

Since mid-February the team has visited Ballina, Dubbo, Katoomba, Port Macquarie, Parramatta (two sessions), Queanbeyan, Sydney, Tamworth, Wagga Wagga, Wollongong and Newcastle.

Around 700 stakeholders registered for the sessions, including building surveyors, certifying authorities (public and private) and other practitioners such as civil, electrical, fire safety and mechanical engineers; access consultants; fire services practitioners; planners, architects and building designers; and community members.

We used a number of techniques to obtain information on issues and priorities: participants provided feedback by listing their top three issues on post-it notes; small group sessions discussed and identified important issues; and plenary sessions gave participants the opportunity to voice their opinion at the end of each session.

Data and supporting documents from each session will shortly be posted on the Boards website, including feedback from discussion groups, data from the post-it note exercise and statistical information drawn from surveys completed at each session.

Linking with the NSW Planning System Review

The morning consultation sessions provided valuable input to the NSW Planning System Review.

We have already provided a number of submissions to the Review since the Review commenced. Our [initial submission](#) during the listening and scoping stage was provided in November 2011. We then provided a [submission](#) earlier this month following the release of the Issues Paper.

The Board was also specifically requested by NSW Planning & Infrastructure Minister Brad Hazzard to provide an [additional submission](#), based on the consultation sessions.

Due to the timing of the NSW Planning Review, and the specificity of the Issues Paper, this additional submission records only top-level feedback from our program of consultation rather than the multitude of important issues that we are still studying and collating.

Our next steps are to present the more detailed information to the Board meeting being held this week. After feedback from the Board we will present information in various forms to give all those who attended, and other interested parties, some clarity on the issues that our stakeholders have identified as very important to them.

Online survey

Two online surveys have been developed for those who were unable to attend the Boards consultation sessions. These surveys replicate rating sheets distributed at the morning and afternoon sessions.

The surveys **do not** need to be filled out by those who already attended the sessions and provided us with their thoughts on a ratings sheet. **They should only be completed by those who were unable to attend.**

Take a look at the background papers provided on the Boards website so you can get a stronger sense of the issues as you're filling out the survey. You may also want to take a look at the list of discussion points ([morning session](#) and [afternoon session](#)) that were handed out at the sessions to give you some more context.

- [Morning session \(building certification system\) survey](#)
- [Afternoon session \(council accredited certifiers requirements\) survey](#)

Q&A with Rosemary and Chris

Everyone who attended the consultations sessions heard from Chris Summers, the Boards policy adviser, and Rosemary Naughton, the Boards executive consultant strategy/education and training. With their feet back on the ground after several weeks of travelling, Rosemary and Chris gave us an insight into how the sessions went.

Tell us how you generally felt the sessions went?

Chris: I was extremely impressed with the level of discussion throughout the sessions and the passion building surveyors have for their profession. Building surveying can be a complex job and the building certification process represents only part of their entire work.

At first, attendees thought the sessions were all about us telling them what we want them to do - once they realised we were there to hear what they had to say people were very keen to have their say on how the system could be improved.

From my viewpoint, it was really important that the people who actually carry out the work had an opportunity, and will continue to have an opportunity, to contribute to this reform process. Its a great example of government working with industry.

Rosemary: For me, it was all about making sure people understood the implications of the upcoming changes early next year and how this will impact council accredited certifiers. We were also keen to find out what people thought of CPD and it's clear we need sufficient flexibility in delivery models. So many people expressed their views about the current situation with qualifications and training and helped me understand the diversity of issues were dealing with.

Anyone who came to the sessions would know we are on a bit of a mission to increase the supply of accredited certifiers and the consultation participants gave us plenty of ideas and made it clear this is an issue across the State.

What were the main issues that came up in each of the sessions?

Chris: Theres widespread frustration with the lack of capacity to ensure things are right or to improve processes. Theres also a strong desire to be provided with the right tools to undertake the functions for which building surveyors have been trained.

Building surveyors also made it clear the legislative process is very complex and the level of complexity is becoming more onerous. They have to consider and enforce many legislative instruments.

The industry also faces high expectations, not all of which are within its control, yet has to work within a system that hampers efforts to meet these expectations.

Rosemary: Council employees are concerned about where they stand with the current qualifications, and there was general support for the idea of the Board developing competency based assessment instruments as an alternative to being required to meet the specific qualifications and experience required under the Accreditation Scheme. Councils in regional areas want help to meet CPD requirements, and I think this could lead to localised CPD

models. It was also clear that part-time work, or returning to work for retirees, needs to be addressed in the Accreditation Scheme as far as ensuring individuals and councils still have appropriate insurance cover.

What aspects did you find most interesting?

Chris: Its clear that public and private building certifiers are finding it increasingly difficult to adopt a holistic approach to the building certification system without the necessary resources, even though the community expects them to undertake this wider role. I also found it interesting that even though we visited a real range of locations, there was a fair amount of consistency in the issues raised - although each region tended to focus on a particular point of greater importance.

This demonstrated to me that we need to make sure our solutions are flexible and we must recognise the constraints within the different regional areas.

Rosemary: I was happy with the high level of support for us to refine our CPD policy, and the consultation will help the Board overcome some challenges, particularly in relation to delivery and cost.

There was terrific feedback about how we could increase supply of accredited certifiers for example, campaigns in high schools or providing resources for councils to take on more trainees, and to retain these trainees once qualified. Mentoring schemes were suggested, as were efforts to target tradespeople with building expertise.

Reminders and updates

Professional indemnity

Is your Professional Indemnity Insurance current with the Building Professionals Board?

Many certifiers dont notify the Board regarding their insurance details until their accreditation is due to be renewed. But you can save yourself lost potential income by ensuring that your insurance is current on the Building Professionals Board website.

To check the currency of your details, [visit the Find a Certifier page](#) and select Private Certifiers from the radio button on the top row. Enter your company name into the 'Business Name field (or the 'Certifier' Surname entry field if you are self employed) and hit search.

If you see any discrepancies or inaccuracies please forward your current professional indemnity insurance to bpb@bpb.nsw.gov.au so we can update

this information.

Record keeping: why it's important

There are a number of lessons the Board and practitioners in NSW can learn from the Victorian Auditor General's report on [Compliance with Building Permits](#) from December 2011.

The report identified a number of shortcomings in the building permit process and issues with the procedures used by the Victorian Building Commission and the States building surveyors.

For example, the report found significant gaps in building permit records that should demonstrate building surveyors adequately discharged their statutory obligation to determine statutory compliance with relevant standards:

there was little systemic documentation [to prove] that surveyors had sufficient information upon which to form a reasonable view that proposed building works complied with the Act and regulations prior to issuing the permits.

In NSW, the EP&A Regulation requires the PCA to forward to council any documentary evidence relied on in issuing an occupation certificate (OC), along with a copy of the OC, within two days of issuing the OC.

Don't forget to be vigilant when obtaining and filing documentary evidence to support your decisions, and always forward relevant documents to council in the specified time. Checking the adequacy of that evidence gives you the reassurance to issue a certificate or to be convinced that an inspection was satisfactory.

Council accredited certifiers

Did you know?

Did you know there is now a form available on the Board's website so that Councils can notify the Board when a Council Accredited Certifier commences employment or ceases employment with a council? This form will help Council in fulfilling the requirements of the Building Professionals Regulation 2007.

- [Download the form](#)

Are you aware that there are now updated application forms available for Council Certifiers wishing to apply for accreditation?

- Visit [here](#) and select the required document.



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Update on consultation

Online surveys

Dont forget, for those who were unable to attend the sessions in person, the Board has set up online surveys for you to have your say about the future of the building certification system and requirements for council accredited certifiers.

Take a look at the [background documents](#) before you complete the surveys. They only need to be completed by those who were unable to attend the sessions in person.

- [Morning session \(building certification system\) survey](#).
- [Afternoon session \(council accredited certifiers requirements\) survey](#).

Round-up results: 'post-it' notes/raw data

Those of you who attended the sessions will recall that you were asked to list your top three issues about building certification under different sets of headings. The Board is in the process of analysing these results in the meantime, you can check links on the [consultation page](#) of the Boards website for the raw data from these exercises, listed by location.

CPD for consultation sessions

The Board has decided that the recent consultation sessions in February and March 2012 are continuing professional development (CPD) for the purposes of the Boards accreditation scheme. While we had initially seen the consultation sessions as an opportunity for the Board to hear views from

stakeholders, we found throughout the consultation that each session was also both educative and an excellent opportunity for networking, and therefore appropriate to be classed as CPD.

For council accredited certifiers:

- Attendance at the morning certification sessions counts as 2 and 1/2 hours CPD.
- Attendance at the afternoon council sessions counts as two hours CPD.

For private accredited certifiers:

- The AAC is offering 2.5 CPD points under their scheme for the morning session and two points for the afternoon session.
- The AIBS has agreed to allocate 2.5 CPD points for the morning session and two points for the afternoon session.

Dont forget: council accredited certifiers are required to undertake four hours of CPD in their first year of accreditation, six hours of CPD in their second year of accreditation and eight hours of CPD in their third year of accreditation. Private certifiers are required to satisfy the requirements of a CPD program from a professional association recognised by the Board.

Stakeholder consultation

The Board has commenced a program of stakeholder meetings with representative organisations and relevant agencies. This will take place over the next five to six weeks (invitations are currently going out).

The stakeholder meetings will give representative organisations and agencies a run down on the outcomes of the consultation and will provide an opportunity for these organisations and their members to provide feedback on the major issues raised.

Calling for Expressions of Interest

Funded training: Diploma of Building Surveying at OTEN

Since last Fridays e-newsflash, the Board has had many enquiries about the Strategic Skills Program (SSP) funding from NSW State Training Services for 20 people to undertake the Diploma of Building Surveying qualification through NSW TAFE Open Training Education Network (OTEN).

There have been a number of enquiries from people who are already enrolled in the Diploma of Building Surveying or who have enrolled and not commenced their studies. The funding is not currently available to people currently enrolled in other secondary or tertiary education.

Participants enrolling in the Diploma of Building Surveying funded by the SSP need to be:

- existing workers i.e. currently employed **and**
- not currently enrolled in secondary or tertiary education **and**
- a NSW resident or person that works in NSW **and**
- an Australian citizen or foreign national with current permanent Australian residency **or**
- a NZ passport holder who has been a resident in Australia for at least six months **or**
- a humanitarian refugee.

There is NO restriction of any previous qualifications that enrolling participants may hold (this is only a restriction for funded training for Traineeship programs)

The Board will continue to seek funding on an ongoing basis to support the achievement of qualifications in building surveying and will be keeping a database of interested applicants.

In response to requests, the Board has developed an [expression of interest \(Eoi\) template](#) to assist the Eoi process. If you have already submitted an Eoi there is no need to fill in the template.

All nominations and supporting documentation should be sent to bpb@bpb.nsw.gov.au by 5.00pm 5 April 2012. Applicants will be shortlisted and may be subject to an interview process and successful applicants will be advised by 30 April 2012.

For more information contact [Rosemary Naughton](#).

News from the Board

Summary of complaints and investigations

The Board's latest Summary of selected complaints and investigations includes a case study on disability access provisions in the BCA, case studies relating to compliance with the Codes SEPP and the BCA, and a timely reminder on taking action on non-compliance issues.

- [View the latest Summary](#)

Local development performance monitoring

A new information sheet highlights data from 2010-11 relating to the certification process.

- [View the information sheet](#)

Is your accreditation up to date?

Weve recently reviewed our records and found that a number of certifiers have let their accreditation expire.

There are now provisions within the Accreditation Scheme under section 13.2A for you to make an application to the Board for renewal out of time without having to do a complete assessment - providing your application is submitted within the first three months of the expiry date of your accreditation.

To check the status and accuracy of your accreditation, click on the [Find a Certifier](#) page of our website, and use the search function to find your details. If you do not appear on the website or there are any discrepancies, contact the Board as soon as possible on (02) 9895 5950.

Events

AAC - FRNSW event

The Association of Accredited Certifiers is hosting a Fire & Rescue NSW Seminar in Sydney on Tuesday 1 May 2012.

The seminar will explain what actually happens when FRNSW firefighters turn up at a fire incident from operational issues, to search and rescue and use of hydrants.

Chris Jurgeit, Manager, Structural Fire Safety, FRNSW, will present case studies of actual recent fire events in NSW. The case studies will include discussion on the incident, FRNSW response times and challenges experienced by FRNSW in terms of compliance issues and site circumstances, with supporting photos where appropriate.

Chris and his colleagues will cover:

- What worked on site and what didn't in terms of compliance (fire services, location of hydrants/booster, brigade access, compartmentalisation, effectiveness of sliding fire doors and shutters, spread of fire, non-sprinkler protected buildings, outward collapse of wall panels and whether there was any evident fire engineering)
- Any evident issues as a result of fire services maintenance deficiencies
- Any significant or reoccurring compliance issues the Brigades are currently identifying at 152 inspections and building audits
- Opportunities for Q&As.

Click [here](#) to find out more.

Sydney Water stakeholder workshops

Sydney Water is calling on private certifiers to take part in a stakeholder workshop for their Customer Connections Improvement Project.

The workshop will be held at Sydney Waters head office at 1 Smith Street, Parramatta from 12pm till 4pm on Thursday 19 April. Lunch will be provided.

The workshops will cover improvements to Sydney Waters water and wastewater services. Topics to be covered include:

- changes to the connections process from DA or construction certificate, building plan approval, section 73 and Sydney Water case management
- metering and billing requirements
- Sydney Waters Notice of Requirements and the Developer Process
- Plumbing regulations, Sydney Waters requirements and inspections.

The workshop will begin with seminar style presentations followed by small group discussion facilitated by the Sydney Waters Customer Connections Improvement Project team.

Those who attend the workshop will be asked to review several draft documents, including consolidated customer connection policies, a new connection application form and a consolidated customer connection agreement. These documents would be provided from Monday 2 April and it would be helpful, in preparation for the workshop on 19 April, if feedback can be provided on these draft documents by Friday 13 April.

To attend, please RSVP by Friday 13 April to emily.squires@sydneywater.com.au, or contact Emily on 8849 6057.



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2012 consultation sessions

Further feedback from breakout sessions

Attendees to the Board's recent consultation sessions undertook group discussions to look at various issues relating to the NSW building certification system. A summary of the items discussed is below (similarly worded items have not been removed).

We have collated and are continuing to analyse comments made by participants from each session and will report back on our analysis soon.

- [View the issues identified in the feedback sessions](#)

Update on stakeholder meetings

Meetings with stakeholder organisations are underway to discuss feedback from the consultation and prepare a strategy to achieve improvements to the building certification system.

So far, meetings have been held with:

- Fire Protection Association Australia
- Property Council of Australia
- Master Builders Association
- Australian Institute of Building
- NSW Architects Registration Board
- Local Government and Shires Associations.

The meetings have covered a possible expansion of the building certification system to include additional building practitioners; requiring development application and construction plans to be prepared by a registered architect or accredited building designer; reviewing the mandatory critical stage inspection

requirements; and introducing specific building approval legislation in NSW and/or an integrated agency responsible for the regulation of all building practitioners.

Practice advice

Certification forms

The Board has developed certification forms in Microsoft Word that can be used as templates when carrying out certification work. The forms can also be used to review forms already in use by certifiers in their certification processes.

The certification forms reflect statutory requirements and also include additional matters as advised by the Board's Technical Reference Group.

The forms deal with the following situations:

- [Group A](#)
Construction certificate forms - for use by individual private accredited certifiers where the local council is the consent authority.
- [Group B](#)
Complying development certificate forms - for use by individual private accredited certifiers.
- [Group C](#)
Construction certificate forms - for use by councils where council is also the consent authority.
- [Group D](#)
Complying development certificate forms - for use by councils.

Premises Standards: new forms

New interactive forms have been added to our website for those applying for an unjustifiable hardship exemption under Part 4.1 of the Premises Standards. These replace the forms that were previously online. Only continue to use the original forms if you are midway through the application process.

These forms should be read alongside the [Guide to applying for unjustifiable hardship](#).

- [Application for assessment of unjustifiable hardship](#)
- [Considerations under Part 4.1 relating to unjustifiable hardship](#)

Providing section 96 determinations to PCAs

Applications under section 96 of the EP&A Act allow a development consent to be modified, as long as the development is substantially the same as originally approved.

In its submission to the NSW Planning System Review, the Board noted that

some councils do not readily provide [the outcome of a section 96 application] where a private PCA is engaged, or may not require a formal section 96 application where council is the PCA, thus exercising a discretion that is not available to private PCAs.

The Board has received a number of enquiries from private certifiers engaged as PCAs who have not been made aware of the outcome of section 96 applications.

Whilst there is no legal requirement for a council to provide a copy of the section 96 determination to the PCA for the building or subdivision work, it is the Boards view that it is critical to the building and development process for such a practice to occur. Without knowledge of the outcome of a section 96 determination, the PCA may carry out inspections or issue a construction certificate or occupation certificate on superseded development consent plans.

The Board therefore encourages, as best practice, that consent authorities provide a copy of a section 96 determination to the PCA when the determination is provided to the applicant.

Likewise, PCAs should also notify building owners that it is important that the owner notify the PCA of the outcome of these applications as this is not automatically done by the consent authority.

Advisory Reviews

The Board carries out Advisory Reviews of accredited certifiers and councils. The Reviews assist accredited certifiers and councils to carry out their functions as certifying authorities by focusing on education and promoting high standards of professionalism.

The Boards staff have been busy travelling around the State since the start of 2012, visiting councils and certifiers from as far afield as Armidale and Albury.

Since the start of 2012, staff have undertaken 45 Advisory Reviews of 34 councils and 11 accredited certifiers.

Board staff undertaking Reviews check the register of projects, access records required to be kept by the Building Professionals Regulation 2007 and undertake a specific assessment of selected files against a standard checklist.

The checklist provides a guide for Board staff to record details relevant to the Advisory Review. While matters outside of the checklist may also be considered, the checklist provides an insight into the matters generally considered during an Advisory Review.

- [Advisory Review Checklist - certifier](#)
- [Advisory Review Checklist - council](#)

Some recurring issues have included

- Construction certificate (CC) applications not containing the information or accompanied by required material (under Part 3 Schedule 1, EP&A Reg) or not endorsed with the date of receipt (cl. 139 EP&A Reg).
 - BASIX commitments not reflected on CC plans.
 - No record of inspection of an existing building and site (where relevant) on CC application (cl. 143C EP&A Reg).
 - CCs not containing required information (under cl. 147 EP&A Reg) and not accompanied by fire safety schedules (cl. 168 EP&A Reg).
 - Councils incorrectly nominated as the PCA on combined development and CC applications as the person didn't have the benefit of a development consent at that time.
 - No record by the PCA of Home Warranty Insurance prior to commencement (s109E(3)(b) EP&A Act).
 - Non-complying records of inspection, such as hand written notes on inside cover or rear of the file (cl. 162B EP&A Regulation).
 - Some building inspections not carried out and no documentation of these being unavoidably missed (within meaning of cl. 162C EP&A Reg) prior to issue of an occupation certificate (OC).
 - OCs being issued when there has been no formal application for an OC (under cl. 149 EP&A Reg).
 - OCs issued without a fire safety schedule and fire safety certificate (cl. 155 EP&A Reg).
 - The text of OCs not complying (cl. 155 EP&A Reg).
 - Minimal documentation to show BASIX commitments have been implemented prior to issue of an OC (cl. 154 EP&A Reg).
 - PCAs not obtaining a BASIX completion receipt prior to issue of final OC (cl. 154C EP&A Reg).
-

Having your say

Foil and frames

Since the advent of BASIX and Part J of the BCA, a number of new products have been developed to provide wall insulation in cavity construction. Additionally, to prevent wet weather causing delays in construction, sheet foil insulation and other similar products are now used to ensure continuity of construction.

These products influence a builders' construction method as well as the ability of certifiers to adequately fulfil their obligations under clause 162A of the EP&A Regulation 2000 with respect to critical stage inspections. Concern has been raised that certifiers are unable to inspect wall ties and cavities when undertaking a frame inspection when building wrap or wall insulation is used.

An evaluation of the mandatory inspection process is one of many issues being considered as part of the Boards review of the NSW building certification system. This will include assessing the number and type of inspections to be undertaken, their relevance and the matters that should be considered when undertaking such inspections.

We are therefore seeking your contribution to help us identify possible issues, concerns or conflicts that may arise when undertaking an inspection prior to covering of the framework to a wall frame where either building wrap techniques or wall insulation batts are used.

Please take five minutes to make a comment [here](#) between now and **Friday 11 May 2012**.

Plumbing and Draining Regulation 2012

NSW Fair Trading invites plumbers, drainers and builders to have their say on the draft Plumbing and Drainage Regulation 2012. Comments on the proposed Regulation can be lodged with Fair Trading until close of business 4 May 2012.

To have your say and download copies of the Regulatory Impact Statement and proposed draft Regulation go to the [comment on Plumbing and Drainage Regulation 2012 page](#) on the NSW Fair Trading website.

Update on the NSW Planning System Review

More than 600 submissions have been received on the NSW Planning System Review issues paper. These will help to inform the preparation of a Green Paper on new planning legislation for NSW. The Green Paper is due for release in early May 2012.

- [View the list of submissions](#)
- [Register to receive an email alert when the Green Paper is released.](#)

Funding for training

Over 50 applications received

Applications for funded places for training for the Diploma of Building Surveying are now closed.

The 20 successful applicants will be advised of their place during the first week of May with commencement expected by June 2012.

The Board will continue to seek additional funding to support training towards qualifications in building surveying.

[Subscribe](#) | [Unsubscribe](#) | [Forward](#)

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

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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) 9895 5950
Fax: (02) 9895 5949
Email: bpb@bpb.nsw.gov.au



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Update on consultation

Raters sheets

Our consultation sessions included a number of activities to discuss important issues and elicit feedback from attendees.

At the end of each session, we provided attendees with raters sheets that measured the importance they placed on several issues. These same issues were also made available for comment and rating online for those who were unable to attend the sessions in person.

The morning sessions measured the importance of issues around:

- certifying building design work
- whether building work is consistent with approvals
- the type of certification or verification needed and whether this can come from non-accredited people
- insurance and liability
- accrediting other building practitioners.

The afternoon sessions measured the importance of issues around:

- qualifications
- continuing professional development
- how to increase the supply of accredited certifiers.

A summary of the raters sheets is below, as is a link to all the issues as they were included in the raters sheets (we have reduced the length of the written issues for reporting purposes).

- [View the results from the raters sheets](#)
- [View the full list of issues](#)

Meeting with stakeholder organisations

The Board is continuing to meet with various stakeholder organisations. In the last two weeks we have met with:

- Building Designers Australia
 - Association of Accredited Certifiers
 - Association of Consultants in Access, Australia
 - Association of Hydraulic Services Consultants Australia (NSW).
-

Practice advice

National Construction Code (NCC) Series 2012: Implementation dates

The NCC Series consists of the Building Code of Australia (BCA) as Volume One and Two and the Plumbing Code of Australia (PCA) as Volume Three. The NCC series is amended annually and published as a new edition each year.

BCA 2012

The 2012 edition of the BCA will take effect on 1 May 2012.

PCA 2012

In NSW, it is anticipated that the PCA will come into effect on 1 July 2012, subject to the finalisation of legislative and administrative arrangements. For further information regarding this matter, refer to the Fair Trading NSW website at www.fairtrading.nsw.gov.au.

Further information

The Department of Planning & Infrastructure will issue a Planning Circular in the near future, providing further information regarding BCA 2012. This will be available on www.planning.nsw.gov.au.

The following information is also available from the Australian Building Codes Board (ABCB) regarding NCC 2012: Lists of Amendments, listing each individual change made under NCC 2012, are contained in the back of each volume of the NCC. Presentations of the information seminars on NCC 2012 can be downloaded from the ABCB website at www.abcb.gov.au.

Complying development - transition from council DCPs and LEPs

In November 2011, State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Miscellaneous) (No 2) 2011 was made to extend the operation of local complying development controls in

local environmental plans (LEPs). As a result, existing complying development controls in a councils LEP continue until the council has made an LEP using the standard instrument.

The Boards Disciplinary Committee recently dismissed complaints about a certifier who issued complying development certificates (CDCs) shortly after a council made an LEP for complying development using the standard instrument. The Committee found that the applications were lodged with the certifier prior to the LEP being made.

In making its decision, the Committee considered legal advice regarding the effect of the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP). Whilst not without doubt, the Committee determined that the Codes SEPP permitted an application for a CDC to be assessed under the council controls that were in force at the time the application was lodged. The Department of Planning is currently considering whether additional clarification of this issue is required through further amendments to the Codes SEPP.

This issue will continue to arise as local environmental plans (LEPs) are replaced by plans based on the standard LEP instrument.

- [Find out more](#)

New LEPs and complying development

Further to the article above, the high number of LEPs being exhibited and made impacts the issuing of CDCs. The Department of Planning & Infrastructure is aware of at least three CDCs issued incorrectly in the past month where a section 149 certificate was not obtained.

Certifying authorities must remember to make themselves aware of any planning restrictions that apply to the land being developed, to be sure the certificate can be issued in accordance with section 85A(3) of the EP&A Act.

Before issuing a CDC, certifiers should check the planning restrictions that apply. They will find this information by checking the relevant councils website for publication of any new LEP or draft LEP. They can also obtain a section 149 planning certificate.

This should be done on the day the certifier is going to issue the certificate to ensure the LEP has not reclassified the land for example, the land could now be in a draft conservation area. In such circumstances a proposal would not be able to be assessed as complying development and development consent would be required from the local council.

On exhibition

Accuracy of cost estimate: draft circular

The Department of Planning & Infrastructure has released a draft circular to assist the accuracy of cost estimates that accompany development applications (DAs) used by consent authorities to calculate DA fees. The draft circular is open to public comment until next Friday 4 May.

- [Find out more](#)

Plumbing and drainage regulation

The draft plumbing and drainage regulation will be on exhibition until 4 May.

- [Find out more](#)
-

Events

Seminar: Fire & Rescue NSW - 1 May 2012

Don't forget: the Association of Accredited Certifiers is holding an event with Fire and Rescue NSW (FRNSW) on 1 May, allowing you to get a first-hand look at what happens on site in the event of a building fire when FRNSW is faced with possible BCA non-compliances and/or lack of maintenance of fire safety systems.

- [Find out more](#)

Seminar: Premises Standards - One year on - 5 June 2012

The Association of Accredited Certifiers is also holding a seminar on Tuesday 5 June 2012 to provide an update on the first 12 months of the Premises Standards and applications for assessments of unjustifiable hardship. The seminar will be presented by Mr Chris Summers on behalf of the Board.

- [Find out more](#)
-



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Update on consultation

Online consultation set to commence

Over recent weeks weve been reporting on the outcomes of our consultation sessions held earlier this year, and in the next few weeks, we will present our final analysis of all the feedback we received.

We are also about to embark on a rolling program of online consultation, focusing on specific issues that were raised during the sessions. This online consultation will be an excellent opportunity for everyone interested in the future of the building certification system to help shape efficient and practical outcomes.

How will the online consultation work?

The online consultation will include a number of background papers on specific issues with links to online surveys. Were planning on releasing background papers for feedback progressively from late May through to June.

We'll be sending out the call for feedback through the BPBulletin, and the background papers will also be held on the [2012 Consultation](#) page of our website.

There will be an opportunity to provide free-form feedback at the end of each survey. Stakeholder organisations may prefer to provide written submissions so they can encompass the views of all their members.

What issues will be covered?

Weve prioritised the issues to be included in the online consultation based on what is most important to certifiers, and what we know we can improve within

statutory and regulatory frameworks and within a short to medium term timeframe.

Issues to be covered include component certificates, occupation certificates, liability, critical stage inspections and retrospective construction certificates.

What do we want from you?

We expect each set of online feedback to take 10 to 15 minutes to complete, and we expect to be asking for that time every one to two weeks from next week and into June. This lessens the burden on your time and gives us an efficient way to monitor and respond to feedback.

What about a model for an expanded building certification system?

We will be presenting a proposed model for an expanded building certification system, and will be calling for written submissions on that model, in the next few weeks.

- [View the consultation page](#)

Ongoing meetings with stakeholder organisations

We're continuing to meet with various stakeholder organisations. In the last two weeks we have met with:

- Housing Industry Association
- Owners Corporation Network
- Urban Development Institute of Australia (NSW)
- The Urban Taskforce
- WorkCover

Practice advice

Compliance with BASIX commitments and CCs

Part 3 of Schedule 1 of the EP&A Regulation (clauses 5, 6 and 6A) sets out the information that must be contained in - and the documentation that must accompany - an application for a construction certificate (CC).

The EP&A Regulation states that building plans and specifications for any development subject to BASIX* must include the matters detailed on the

BASIX certificate. It is not sufficient for the plans and specifications merely to refer back to the BASIX certificate.

Certifying authorities should not approve CC applications for any development that is subject to BASIX* unless all the matters listed on the relevant BASIX certificate/s as required to be included in the plans and specifications are so included. This will help ensure the BASIX requirements are met.

Compliance with BASIX commitments and OCs

If a development is subject to BASIX* and a relevant BASIX certificate requires a certifying authority to monitor fulfilment of any of the commitments listed in the certificate, then, under clause 154B of the EP&A Regulation, a certifying authority may only issue an interim or final occupation certificate (OC) for the building if each relevant BASIX commitment (whose fulfilment the certifying authority is required to monitor) has been implemented.

Further, under clause 154C of the EP&A Regulation, a certifying authority can only issue a final OC in relation to a BASIX affected building after applying to the Director-General of the Department of Planning and Infrastructure for a BASIX completion receipt with respect to that building or part.

- [View the BASIX fact sheets](#)

**meaning a building that is BASIX affected development or BASIX optional development as defined in clause 3 of the EP&A Regulation.*

The issue and timing of OCs

The Board has been requested to provide advice concerning the issue of OCs, particularly when a significant period has passed since a final inspection.

Neither the EP&A Act nor EP&A Regulation place any restriction on the timing of an application for an OC. However, a principal certifying authority (PCA) cannot issue an OC unless all of the relevant requirements under the Act and Regulation are satisfied.

Clause 149A(1) of the EP&A Regulation allows a certifying authority to require the applicant for an OC to provide additional information that is needed for the application to be properly considered. There are no statutory restrictions on how long an applicant has to provide this information.

We recommend accredited certifiers specify a reasonable time for the information to be provided, taking into consideration the nature of the

information required. If the specified time passes, inform the applicant that unless the information is provided within a further period, the application will be determined on the basis of the information available to the certifier at the time.

If some time has elapsed between the final prescribed inspection and the lodging of the application for the OC (or the additional information being required by the PCA under clause 149A(1) being provided), the certifying authority should consider re-inspecting the development to establish if the criteria for the issue of the OC are still satisfied.

Applicants for CCs for Council-owned land and Crown land

The Board was recently asked whether community groups or committees can apply for a CC and appoint a PCA in relation to Council-owned land and Crown land.

Clause 49 of the EP&A Regulation enables a DA to be made by the owner of the land or by any other person with the written consent of the owner. A DA made by a lessee of Crown land may only be made with the consent in writing given by or on behalf of the Crown. This means the General Manager for Council-owned land must provide consent, and the relevant government agency for Crown land must provide consent.

Clause 139(1A) of the EP&A Regulation provides that an application for a CC may only be made by a person eligible to appoint a PCA for the development. Under section 109E(1) of the EP&A Act, the person entitled to appoint the PCA for the development is the person with the benefit of the development consent, namely the applicant.

The EP&A Act defines a person as including an unincorporated group of persons or a person authorised to represent that group. The *Interpretation Act 1987* defines person as including an individual, corporation, body corporate or politic. Both definitions are non-exhaustive and wide.

If a committee or community group has applied for and obtained development consent, it can apply for the relevant CC, where required, and appoint a PCA.

RFS Practice Advice

The latest Fast Facts and Practice Notes from the NSW Rural Fire Service include:

- Fast Fact 1/12 - Application of Section 100B: information on the application of Section 100B of the *Rural Fires Act 1997* (RF Act)

- Fast Fact 3/12 Building Elements in BAL 40 and BAL FZ: clarifies the requirements for the use of building elements within Bushfire Attack Level (BAL) 40 and BAL FZ.
- Practice Note 1/12 Establishment of Easements for APZ: provides direction on the establishment of easements for the creation and maintenance of APZs during the development assessment process.
- Practice Note 2/12 Planning Instruments and Policies: provides direction for local government and agencies responsible for the creation and implementation of local area policy and provisions for development in bush fire prone areas.

A master list indicating active and obsolete Fast Facts and Practice Notes with current versions will be made available soon.

- [View the documents](#)

Additional certifiers join Electronic Housing Code

An additional 25 accredited private certifiers can now approve complying development applications through the Electronic Housing Code (EHC), tripling the number of certifiers involved.

The EHC allows builders, homeowners and renovators to prepare, lodge and monitor complying development applications online, receiving fast-tracked approvals in as little as 10 days.

Expressions of interest will be invited in mid 2012 for additional NSW councils and certifiers to join the program.

- [Find out more](#)

Premises Standards

Hotline closing

Its been 12 months since the Premises Standards were introduced across Australia and we will be closing our dedicated 1300 hotline and email service from 1 June 2012.

Any queries from that date should be phoned through to the Boards switch on 02 9895 5950. Applications to the Access Advisory Committee for unjustifiable hardship assessments should continue to be sent to access@bpb.nsw.gov.au.

Reminders

Applications for higher categories of accreditation

Dont forget if youre applying for a higher category of accreditation and your current accreditation is close to expiry, you will also need to apply to renew your current accreditation.

This will avoid your current accreditation expiring while your new application for a higher category is being determined - and avoids a situation where you would not be able to carry out certification work until your new application for a higher category is determined.

Website updates

The Board has updated the Guide to Applying for Accreditation and Form 1 application for accreditation.

- [View the Guide](#)
 - [View the updated form](#)
-

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Building Professionals Board
PO Box 3720
Parramatta NSW 2124

Tel: (02) 9895 5950
Fax: (02) 9895 5949
Email: bpb@bpb.nsw.gov.au



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2012 consultation: the future of building certification in NSW

Online consultation kicks off today

The next substantial stage of the Boards consultation program in 2012 kicks off today, with the release of the first Issues Paper and related online survey on:

- [Reliance on component certificates](#)

We're asking for around 10 to 15 minutes of your time to:

- read through a summary of the issues as they were identified during our consultation sessions
- respond to an online survey that goes into greater detail on each of the issues.

This detailed feedback will guide the statutory and regulatory changes required.

While the online survey is the most efficient way for us to obtain specific feedback, you may also provide written submissions via email to policy@bpb.nsw.gov.au

The online consultation for Reliance on component certificates will close on **15 June 2012**. Keep your eye on the BPBulletin for new Issues Papers and online surveys and be sure to let your colleagues who don't subscribe to the BPBulletin know about the consultation. Just choose the forward option at the base of this email.

Meetings with stakeholder organisations

In the last fortnight, we have met with:

- Australian Institute of Architects (NSW Chapter)
- Consult Australia (NSW)
- Engineers Australia (Sydney Division)
- Institute of Public Works Engineering Australia (NSW Division)
- NSW Fair Trading
- Planning Institute of Australia (NSW Division)
- Real Estate Institute of NSW
- Society of Fire Safety
- Strata Community Australia (NSW)

We're moving!

After eight years, the Board is upping sticks from one side of Parramatta to the other. This Friday, we move from Valentine Avenue to Marist Place.

Our new details are:

- Building Professionals Board
Level 3, 3 Marist Place
PARRAMATTA NSW 2150

Our new phone number will be **9873 8537**.

All phones from our Valentine Avenue will be automatically forwarded to the Marist Place offices for several months. Our PO Box address remains the same.



New Board member

Robert Marinelli joins the Board

Robert Marinelli, director and joint managing director in the Philip Chun group of companies, took up his position with the Board in March. Robert has worked on the Board's Disciplinary and Accreditation committees and as a member of the Boards Technical Reference Group, and has been involved in government working parties on changes on planning legislation. Robert has also lectured on behalf of the Board at UTS Sydney.

Robert has worked across a range of development - from domestic residential to multi-storey office, healthcare, hotel and retail developments. He has also been involved in numerous expert witness and building compliance assessments of buildings.

The Boards President, Sue Holliday, said Robert has many years of experience at the highest level of certification.

The Board is delighted to have Robert add his expertise to those of the other Board members, she said. He has already contributed as an independent

member of several Board committees and now joins the Disciplinary Committee as a full Board member. His involvement will be greatly valued.

Robert said he will do all that he can to raise awareness of the profession as a whole.

Id like to concentrate on clarifying the building surveyor's role and responsibilities within the whole construction process, he said.

"In the past there may have been a lack of understanding and awareness of this role within the building industry and the general public, which I think may have led to some confusion. I believe that I can contribute in a positive way to assist to overcome these issues.

"The discussions will be challenging and I look forward to the next steps to better the profession.

Governing the Compact City

New report on strata schemes

City Futures, at the University of NSW, has launched its *Governing the Compact City* report.

The report draws on the experience of 1,550 strata owners, managers and peak body representatives in NSW to provide the first comprehensive evidence of the challenges facing strata owners and managers in effectively managing their strata schemes, and an evidence base to inform future reforms in this area.

The report presents findings from a multi-year research project funded by the Australian Research Council, in partnership with NSW Fair Trading, NSW Land and Property Information, Strata Community Australia, the Owners Corporation Network of Australia, Macquarie Bank and Lannock Strata Finance.

- [View the report and executive summary.](#)

Have your say

Draft amendments to Standard Instrument Order 2006

In 2011 the Department of Planning & Infrastructures Local Planning Panel surveyed all Councils to seek feedback on the content and implementation of the Standard Instrument (Local Environmental Plan) template. It has since been holding stakeholder meetings with councils and industry groups.

Some of the main issues raised by councils in implementing the template at local level relate to the limited number of environmental zones and constraints resulting from the prohibition of subzones.

The Department is therefore seeking feedback on proposed changes to the Standard Instrument template which will:

- insert Zone E5 Environmental Protection
- remove prohibition of subzones.

The draft amendments with accompanying background papers will be exhibited until May 29 2012.

- [View the proposal](#)

Department of Planning & Infrastructure survey

The Department of Planning & Infrastructure is running a survey to give you a say about the planning system and the Departments services.

The survey is completely anonymous and information you provide cannot be used to identify you. It has only 10 questions and should only take five minutes to complete.

- [View the Survey](#)

Premises Standards

Upcoming event

The Association of Accredited Certifiers is hosting a seminar/workshop session to provide an update on the first 12 months of the Commonwealths Premises Standards and their application in NSW.

The Boards access consultant, Chris Summers, will discuss case studies and guide workshop sessions covering issues such as:

- the performance route
- alternative solutions - right or wrong
- generating of unauthorised works

- legislation issues and dealing with the arguments
- Legislative deficiencies when linking the Standards with the EP&A

[Find out more and register](#)

Dont forget: The Premises Standards hotline will close down at the end of this month. Any queries regarding the Premises Standards after that date can be made through to the Boards switchboard.

Website updates

The Board has amended and updated a number of forms relating to the process of applying for accreditation, to bring our forms into line with recent changes to NSW statutory declarations that commenced on 30 April 2012.

New Statutory Declaration forms used for the renewal form for council accredited certifiers and private certifiers are available [here](#).

The Board has also updated the [How to replace a PCA](#) Information Sheet.

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Building Professionals Board
PO Box 3720
Parramatta NSW 2124

Tel: (02) 9895 5950
Fax: (02) 9895 5949
Email: bpb@bpb.nsw.gov.au

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Message from the Board President

Last week, at the request of the Minister for Planning & Infrastructure, the Hon Brad Hazzard MP, I wrote to a number of NSW government agencies regarding a cross-Department group that will investigate the fragmentation of building regulation in NSW.

The Minister has asked the Board to set up the group to provide recommendations to the Government on appropriate improvements to the current system.

Weve received strong interest already from a number of relevant agencies, and will be meeting with representatives from NSW Fair Trading, the Department of Planning & Infrastructure, the Division of Local Government in the Department of Premier and Cabinet, WorkCover NSW, and the Long Service Corporation later next week.

This first meeting will allow group members to consider:



- areas and consequences of fragmentation within building regulation in the NSW
- models of integrated bodies in other jurisdictions that oversee, license, educate and audit all building practitioners
- feedback on building regulation in NSW as received through the review of the NSW planning system and the Boards ongoing consultation
- a structure and process in which to report to Government.

I'll be reporting back to you once the group has met and expect that many of the issues we discuss will tie in with the issues being raised through our consultation.

By the way, I also found the recent article in *Building Connection* magazine about the changing role of building surveyors very interesting you can read the article [here](#).

Update on consultation

Online surveys

Dont forget the online survey regarding Component Certificates is open until this Friday 15 June. Weve already received over 160 responses and were keen to hear from as many of you as possible.

- [View the issues paper](#)
- [View the online survey](#).

This week, were releasing one more survey on a proposed PCA contract for services. This survey will be open until Friday 29 June. Well have two more surveys ready for you early next week.

- [Read the issues paper](#): PCA Contract
- [View the online survey](#): PCA Contract

Stakeholder meetings

Over the past fortnight, weve met with:

- Association of Building Sustainability Assessors
- Australian Institute of Refrigeration, Air-conditioning and Heating
- Development and Environmental Professionals Association
- NSW Fire and Rescue
- NSW Rural Fire Service

The Board thanks representatives of all stakeholder organisations who gave their time during these meetings to discuss the future of building regulation in NSW.

Education & training news

Funding support for qualifications

Twenty people have won support funding from the Board for their enrolment in a Diploma of Building Surveying.

The Board secured Strategic Skills Program (SSP) funding from NSW State Training Services for 20 people to undertake the Diploma of Building Surveying qualification through NSW TAFE Open Training Education Network (OTEN).

The funding represents one of the Boards practical measures to help increase the supply of building surveyors in NSW.

SSP offers training in the skills that are important to the NSW economy in priority industries and industries suffering skill shortages, and in skills that support innovative industry and jobs. Building surveying has been identified as an industry with a skills shortage.

The Board received 68 expressions of interest. Of these, 48 were from males and 20 from females; 43 were from metropolitan areas and 25 from regional NSW; and 51 were from council applicants, with 17 applying from private organisations.

As part of the conditions of funding, the Board needed to ensure we had wide geographic representation across NSW. Of our 20 successful applicants, 17 are from councils, 12 are from regional NSW, and we have two from Western Sydney.

The Board will be seeking ongoing funding to support the achievement of qualifications in building surveying.

Graduate Diploma in Access Consulting

The Vocational Graduate Diploma of Access Consulting was endorsed by the National Skills Standards Council in late April.

The qualification is included in CPP07 Property Services Training Package Version 10 with the qualification code for the new qualification being CPP80312 Vocational Graduate Diploma of Access Consulting.

The qualification and units of competency are now available on training.gov.au, the national repository for endorsed qualifications.

- [View the training package](#)
- [View the qualification](#)

More traineeship opportunities

Would you like to take up a traineeship in Building Surveying or is there someone in your team who would benefit from studying the Diploma of Building Surveying or Advanced Diploma of Building Surveying?

Check out some useful weblinks for information about the Diploma Building Surveying:

- [NSW Training Market for the Diploma qualification](#)
- [The Advanced Diploma qualification](#)

Funding for the traineeships comes directly from the Australian Government to employers, rather than from the NSW Government.

As funding may be affected for candidates with a prior qualification of Certificate III level or higher, its worthwhile having a funding eligibility check carried out. This can be done through the Australian Apprenticeship Centre.

We found the service provided by WSROC/AusNAC on ph 137277 useful. Ask for Luke Bradley or email luke@wsrocgroun.com.

Other centres can also provide assistance just [click here](#) for general information about apprenticeship centres that provide a free service on behalf of the Australian Government and assist with the completion of registration paperwork, notification of the Registered Training Organisation and distribution of relevant Government funding.

If you have difficulty obtaining advice in relation to funding for traineeships contact Rosemary Naughton: Executive Consultant Strategy/Education and Training through the Board's enquiry line on 02 9873 8537 or email: bpb@bpb.nsw.gov.au for more information.

Practice advice

Critical stage inspections

A reminder that clause 162A EP&A Regulation sets out that the PCA is obligated to carry out critical stage inspections on developments to which he or she has been appointed. However, the PCA can agree to another certifying authority to undertake these inspections, except for the final inspection, which the PCA must do.

The PCA cannot rely on only certification, photos or other documents from the builder or developer to satisfy the requirement to undertake a critical stage inspection. A site visit is required.

New Sydney Water Guidelines

Sydney Water has released revised *Guidelines: Notification to Sydney Water Corporation by Consent Authorities of Development Applications - Complying Development for Construction Certificate Stages and Occupation or Subdivision Certificate Stages*.

Dont forget, there is a statutory need to observe the guidelines and the Guidelines include a number of requirements that certifiers need to follow.

- To find out more, [click here](#)

Have your say

NCC 2013 Series

The Australian Building Codes Board (ABCB) has released drafts of the NCC 2013 Series for public comment. Electronic versions of the drafts of Volumes One and Two (BCA 2013) and an explanatory note can be viewed [here](#). A complete 'List of Amendments' is included at the back of each volume.

Please provide comments to the ABCB by 1 August 2012.

Building in flood prone areas

In July 2010, Australian, State and Territory Government Building Ministers agreed that the ABCB should develop a standard for the construction of

certain buildings in flood hazard areas together with an accompanying information handbook.

The ABCB Office has developed a draft Standard 'Construction of Buildings in Flood Hazard Areas' and accompanying draft Handbook with assistance from an expert Reference Group. New Performance Requirements for buildings in flood hazard areas are provided in the NCC 2013 public comment draft.

The draft standard is also associated with the Flood Consultation Regulation Impact Statement which was released for public comment in June 2012.

- [Click here](#) to view these documents

Seminars on proposed amendment to AS 1668.2

Standards Australia has announced the ventilation codes AS 1668.2 (*The use of ventilation and air-conditioning in buildings - Mechanical Ventilation of Buildings*) and a proposed new Standard, AS 1668.4 (*The use of ventilation and air-conditioning in buildings - Natural Ventilation of Buildings*) are open for public comment.

The revision seeks to separate AS1668.2 into two parts:

- AS1668.2 Mechanical Ventilation of Buildings
- AS1668.4 Natural Ventilation of Buildings.

Standards Australia is conducting a seminar on the proposed amendments included in the Public Comment Draft of AS 1668.2 in Sydney on 21 June 2012.

- [Click here to find out more](#)

Fair Trading updates

Home building publications

As a result of the amendments to the *Home Building Act 1989* that came into effect early this year, several home building publications have been revised and reprinted. Use the links below to view or print the revised publications.

- [Applying for a licence or certificate](#)
- [Resolving building disputes](#)
- [Home warranty insurance](#)
- [Building a pool](#)

- [Buying off the plan](#)
 - [Becoming an owner-builder](#)
 - [Building or renovating Fair Trading can help you know your rights](#)
-

Events

Tenability Criteria for Building Fires

The NSW Chapter of the Society of Fire Safety invites members and associated professionals to attend the Third Technical Information Session of 2012: *Tenability Criteria for Building Fires*.

The seminar will include discussion of tenability limits and criteria used in fire safety engineering design of buildings. Presentations will discuss appropriate use of tenability criteria for deemed-to-satisfy and alternative solutions, and the need for consistent tenability criteria for fire safety design of buildings in Australia.

The two-hour session will be held on Wednesday 20 June 2012 at the Engineers Australia auditorium, 8 Thomas Street, Chatswood, from 4pm till 6pm.

- [Register online](#)
-

We've moved!

Dont forget, the Board has now moved offices to Level 3, 3 Marist Place, Parramatta.

The Boards enquiry line is now **9873 8537** and our fax number is **9873 8517**

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Online consultation

Many thanks to those of you who have provided feedback via our online surveys. The surveys on component certificates closed last Friday, and we'll report back on the survey results in an upcoming BPBulletin. Around 200 of you took part in the survey.

Don't forget three more surveys are currently live and we'd love to hear from you:

- PCA Contract (closes **next Friday 29 June 2012**):
[View the issues paper](#) | [View the online survey](#)
- Compliance of built work (closes **Monday 2 July 2012**):
[View the issues paper](#) | [View the online survey](#)
- CCs and CDCs issued for work already completed (closes **Monday 2 July 2012**):
[View the issues paper](#) | [View the online survey](#)

Summary outcomes from consultation sessions

Our analysis of the raw data of feedback received during our consultation sessions earlier this year has identified the following key issues and suggested solutions.:

Consumer protection

Consumer protection issues related to building defects, the lack of qualified persons involved in the construction process and limited insurance protection.

Major building defects were identified as being structural, fire safety and wet areas/waterproofing problems, which require significant costs to rectify. These views are supported by recent University of NSW research.

The main causes of defects were identified as:

- lack of on-site inspections
- construction not being carried out to specifications
- lack of a coordinated approach to trades work
- pressures on fast tracking work and cost reduction.

Attendees called for a clear identification of who is responsible for defects and who is responsible for the certification of designs and work for fire safety systems, engineering plans, bushfire protection, energy efficiency and wet areas/waterproofing.

The inadequate coverage of home owners warranty insurance, the lack of a requirement for all building practitioners to hold professional indemnity insurance, and builders going into liquidation with relative ease were also identified as having an impact.

Attendees called for mandatory professional indemnity insurance for all buildings, or individual project insurance.

Certification of the design compliance of buildings

Certification of the design compliance of buildings, poor quality documentation and difficulties with the poor standard of development consent conditions were cited as key impacts on the reliability of the CC.

The lack of specified minimum detail that should be looked for, lack of clarity about who is responsible for providing this certification and overly broad statements of intent do not ensure proper certification of design.

Attendees called for plans to be prepared by accredited persons, improvements to the wording and clarity of conditions of consent, standardised certification, comprehensive documentation and certification by accredited persons.

Certification of the construction process

Attendees identified several issues around certification of the construction process:

- section 96 modification process for development consents are not clear and can be approved after work has been undertaken
- inspections are limited to what is visible at the time they are undertaken
- documentation is not always available during inspections
- mandatory inspections have limited coverage
- some missed mandatory inspections are not unavoidable
- supervision is not sufficient for the work being undertaken
- the work occurring with the development consent is not consistent
- the PCA needs to meet unreasonable expectations
- the roles of the PCA and the council are unclear.

Attendees called for additional mandatory inspections, guidelines and checklists for inspections, a standardised inspection process, greater supervision of on-site work, realistic expectations about the extent of the role of the PCA through better public education, and a clearer definition of the PCAs role and responsibilities.

Lack of accountability

Attendees identified limited accountability for builders and contractors; limited qualifications, education and competency of persons issuing certificates; the lack of a requirement for a licensed builder in relation to all jobs; conflicts of interest where persons certify their own design; and the limited controls on, and education of, owner builders as issues impacting the responsibility for work done and decisions made.

Attendees called for more equitable and widespread accountability, minimum accreditation standards, independent third party certification, the licensing or accreditation of all builders and trades and mandated education and training for all practitioners. They also called for the accreditation of building designers, the overall principal contractor, engineers and service designers, installers, town planners and fire safety system installers.

Practice advice

Sydney Water guidelines

Following feedback on the Sydney Water guidelines distributed last week, the Board will meet with Sydney Water to iron out some of the discrepancies identified by certifiers. Thanks to those of you who have made contact with feedback.

We'll report back on the outcome of these discussions through the BP Bulletin.

New DAs after serious damage

The Board has been asked for clarification on whether a fresh development application (DA) needs to be lodged to build a new dwelling after a previous dwelling is destroyed by fire, or if the construction can proceed under the consent used for the destroyed dwelling.

Under section 30(1)(b) of the Environmental Planning and Assessment Act (EP&A Act), an environmental planning instrument may provide that a development can only go ahead once consent has been obtained.

With development defined under the EP&A Act as erection of a building (including a reference to the rebuilding of, the making of alterations to, or the enlargement or extension of, a building), the Board advises that in this unfortunate case, a fresh DA is required even if the same plans are used.

Critical stage inspection - stormwater drainage connection (Class 1 & 10 buildings)

The Board has been asked to clarify the necessity of inspecting stormwater lines prior to the backfilling of trenches for Class 1 or 10 buildings.

Clause 162A(4)(f) of the EP&A Regulation requires the principal certifying authority (PCA) or, if the PCA agrees, another certifying authority, to inspect 'prior to covering any stormwater drainage connections.'

In practical terms, the Board considers the PCA, or certifying authority agreed to by the PCA, should maintain the current practice of inspecting stormwater drainage connections prior to backfilling trenches or covering. Ultimately, the PCA is required to be satisfied any stormwater connections, being a critical stage inspection, are satisfactory prior to issuing an occupation certificate.

Upcoming Board meeting

Open meeting in Lismore

Were heading north for the winter and were keen to hear from as many locals as possible!

The Board is meeting in Lismore on 23 July and wed like to meet up with building certifiers and councils in the Northern Rivers/North Coast area to

discuss matters of local interest.

If you're free to attend, we'll be meeting at Lismore Council Chambers, 43 Oliver Avenue, Goonellabah NSW 2480, on the morning of 23 July, and will be holding an information session around 11.30 (timing to be confirmed). Lunch will be served.

Come along and let us know how the certification system is working up north!

To attend, please email bpb@bpb.nsw.gov.au by Wednesday 18 July 2012.

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Message from the Board President

I met with the Minister for Planning & Infrastructure Brad Hazzard last week to update him on many of the areas we were working on, including our consultation. He's very excited about the Board's efforts but he's certainly keen to see us get on with the job.

Minister Hazzard was very clear that any legislative and regulatory changes can be progressed in parallel with the NSW Planning System Review.

He's asked for expert advice from the Board on issues such as insurance, stronger consumer protections and a more forceful approach to certifiers who face multiple disciplinary actions.

You'll recall last month I let you know about the cross-Department group that will investigate the fragmentation of building regulation in NSW. The Minister was pleased to hear the first meeting has been held and has also requested he, along with Fair Trading Minister Anthony Roberts, be invited to attend the next meeting.

This is such a busy time for the Board and I've been thrilled to hear how many of you have had your say through our online surveys. We do thank you for the time you've put in so far.

Sue Holliday
Building Professionals Board President



Consultation 2012

New survey: missed inspections

We have a new survey for you to look at this time into occupation certificates and missed inspections.

Check the link below to read through the issues paper then have your say on the online survey by Tuesday 24 July.

- Missed inspections: [view the issues paper](#) | [view the online survey](#).

Inter-departmental working group

The inter-departmental working group that is investigating the current policy, systems and agency responsibilities for building regulation in NSW met on 19 June.

The meeting included Board members and representatives from the Department of Planning & Infrastructure, NSW Fair Trading, the Division of Local Government and WorkCover NSW.

The intention of the working group is to explore the current situation, and look at how to better integrate the system and how best to progress improvements. The core purpose of the working group is to consider functional improvements to the system. It will report by the end of the year.

The working group will prepare an issues paper to identify, through stakeholder interviews and research:

- current policy, systems and responsibilities for building regulation
- key issues with the existing system
- models in other jurisdictions.

News from NSW Fair Trading

Home Building Act review

NSW Fair Trading is reviewing the NSW *Home Building Act 1989*.

They invite builders, tradespeople, home owners and anyone else with an interest in the home building industry to comment on any aspect of the legislation, including:

- home building contracts
- statutory warranties
- dispute resolutions
- home warranty insurance
- owner-builder permits.

Go to the [Review of the home building legislation page](#) on the Fair Trading website to download a discussion paper, fill out a questionnaire or make a formal submission.

Comments on the Home Building Act close on 18 August 2012.

Proposed Draft Gas Supply (Consumer Safety) Regulation

NSW Fair Trading is also reviewing the Gas Supply (Consumer Safety) Regulation and invites you to have your say on the draft Regulation.

The draft Regulation includes key consumer and community safety issues relating to the regulation of gas appliances, gas installations, autogas installations and those components connected to them.

You can provide your feedback by filling out a short online questionnaire or by making a formal submission.

Go to the Review of the [Gas Supply \(Consumer Safety\) Regulation page](#) on the Fair Trading website for more information about how you can have your say and to download a copy of the proposed draft Regulation and Regulatory Impact Statement.

Comments close on 25 July 2012.

Plumbing and drainage reform

From 1 July 2012, NSW Fair Trading will become the states plumbing and drainage regulator.

From this date, the Plumbing Code of Australia (PCA) will become the technical standard for all plumbing and drainage work in NSW. This also means Sydney Water will no longer provide advice to customers or plumbers

about private plumbing and drainage. Plumbing inspections are carried out by NSW Fair Trading.

The new system means plumbers will be able to work more easily across different regions, without needing to know local variations.

The PCA calls up AS/NZS 3500 and it sets out performance requirements for the design, construction, installation, replacement, repair, alteration and maintenance of plumbing and drainage installations.

For more information visit the [Plumbing Code and Standards page](#) on the Fair Trading website.

New fees

Also from 1 July 2012, most of the fees for services provided by NSW Fair Trading increased to reflect the rise in the Consumer Price Index (CPI).

- [Find out more](#)
-

Upcoming Board meeting

Come and see us in Lismore

Dont forget, the Board is meeting in Lismore on 23 July and wed like to meet up with building certifiers and councils in the Northern Rivers/North Coast area to discuss matters of local interest.

Please come and join us at an information session from 9.30am to 12 noon at Lismore Council Chambers, 43 Oliver Avenue, Goonellabah NSW 2480.

Issues to be discussed include:

- a debrief on the results of the ongoing consultation
- the outcomes of our Advisory Reviews.

The Board would be delighted if you would stay for lunch with Board members and staff after the session.

To attend, please email bbp@bbp.nsw.gov.au by Wednesday 18 July 2012.

Draft Ashfield LEP

LEP on exhibition

The draft Ashfield LEP nominates a number of draft heritage items and draft heritage conservation areas. This has an impact on whether development in relation to these items or areas could be defined as complying development.

Visit <http://ashfieldlep.com.au/> to find out more.

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Parramatta NSW 2124

Tel: (02) 9895 5950
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A new planning system for NSW

Planning system Green Paper

The NSW Government has released the Green Paper *A New Planning System for NSW*.

The Green Paper proposes 23 'transformative changes' to the planning system to move from a heavily regulated and prescriptive system to a simpler, strategic and transparent system which will include a Public Participation Charter.

The Green Paper is the government's response to the report of the independent panel which was established in 2011 to review the NSW planning system. Following extensive consultation the independent panel, led by former NSW Government ministers Tim Moore and Ron Dyer, has produced a two-volume report with 374 recommendations *The Way Ahead For Planning in NSW*.

A review of international best practice in planning law, which was commissioned to help inform the preparation of the Green Paper, has also been released. The review was conducted by Leslie Stein, scholar in residence at the Centre for Environmental Legal Studies at Pace University in New York.

Public feedback on the issues raised in the Green Paper is being invited until 14 September 2012. A White Paper and an Exposure Bill are proposed to be released later in 2012.

The documents are all now [available online](#).

[Impacts on certification](#)

The Green Paper proposes a new planning act to be an enabling act which establishes a broad framework for the planning system. Land use planning and development assessment policies would be provided in the form of delegated instruments or practice notes and guidelines, enabling flexibility to respond to change when there is a shift in policy without the need to amend the legislation.

In relation to the certification system, the Green Paper proposes:

- increasing code assessment (complying development) to reduce transaction costs and speed up approvals
- increasing the range of development exempt from any approval
- extending development types that accredited certifiers can approve
- allowing councils to vary standards for specific applications
- expanding the electronic housing code
- working with councils, industry and planning and building professionals to make code assessment simpler and more user friendly (10 day approval for fully compliant development by a certifier; 25 days for partially compliant development assessed by a certifier and council (for non-compliant part); 50 days for merit assessment).
- developing clear principles about the types of development consent conditions that are appropriate and facilitating the development of standard conditions, possibly on a regional basis for consistency.

Importantly, the Green Paper also proposes a review to identify improvements to building regulation, policy, systems and responsibilities. To ensure such a review is independent and focuses on policy fundamentals, the review will be independently overseen, with the BPB providing appropriate input.

Recommendations volumes

Dont forget the accompanying recommendations also relate to certification issues for example, interim OCs, modifying development (including code assessment development), notifying neighbours of code assessment and other development, developing template conditions of consent, types of conditions of consent, and renaming development applications and construction certificate applications (specifically, recommendations 79-86, 94, 95, 98, 99, 101, 143, 218, 219).

Other findings that fall outside the remit of the Panel but are critical to the Boards current work include:

- broader regulation of the building industry and whether or not there should be a Building Commission with a much wider area of responsibility than the present Board
- the extent to which other professionals involved in the building industry (other than those performing the role of PCA) should be required to

- have professional indemnity insurance
- whether there should be wider registration of, and disciplinary processes for, other participants in the building industry.

It was not appropriate for the Panel to make broad recommendations about regulation of the building industry or the regulation of and disciplinary procedures for certifiers.

Consultation

OCs and missed inspections

Dont forget we have our online survey on OCs and missed inspections open till 24 July.

- [View the survey](#).
-

Have your say

Strata schemes regulations

Land and Property Information have released proposed Regulations for public comment no later than Friday 3 August 2012.

Both the Strata Schemes (Freehold Development) Regulation 2007 and the Strata Schemes (Leasehold Development) Regulation 2007 will be automatically repealed on 1 September 2012. It is proposed to make new Regulations, the Strata Schemes (Freehold Development) Regulation 2012 and the Strata Schemes (Leasehold Development) Regulation 2012 to operate from that date.

The Regulations mostly make for the technical provisions required for the registration of strata plans. They have been combined under the same review as both are similar in nature.

The proposed Regulations follow the format and style of the current Regulations, however minor amendments have been proposed.

The Regulatory Impact Statement includes a summary of the proposed changes.

- [Find out more](#)

Asbestos plan for NSW

A State-wide Asbestos Plan is currently being developed by the Heads of Asbestos Coordination Authorities (HACA) in consultation with industry, unions, asbestos diseases groups and the community.

Public comment on a draft [NSW state wide asbestos plan](#) is open until 5 pm Friday 17 August 2012.

The plan identifies initiatives, actions, responsibilities and timeframes to address each of the four priority areas.

To make comment please use the [response form](#) and either:

- email to karyn.davidson@workcover.nsw.gov.au, or
- mail to Karyn Davidson, WorkCover NSW, Locked Bag 2906, LISAROW NSW 2252.

Events

SFS Seminar

The Society of Fire Safety is holding its *Knowledge is the Advantage* Technical Seminar on 8 August.

Dave Hughes, the System Technical Consultant for FireSense has 30 years' experience in the industry and will discuss AS1670.1 and AS1668.1 smoke hazard management considerations.

- [Find out more](#)

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Building Professionals Board
PO Box 3720
Parramatta NSW 2124

Tel: (02) 9895 5950
Fax: (02) 9895 5949
Email: bpb@bpb.nsw.gov.au



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Consultation

Another opportunity for feedback

We thank all of you who have provided feedback to our online surveys so far weve been so pleased to see all the interest in these important issues.

We have one more issues paper and survey for you to look at:

- Part 4A certificates and development consent pre-conditions: [Issues Paper](#) | [Online survey](#)

Upcoming stakeholder meeting - express your interest in attending

We are in the process of collating feedback from our consultation into a Better Buildings Model for the future of the building regulation and certification system in NSW.

The model is not designed to reinvent processes for certifying authorities and others involved in the building and certification process. Rather, it is expected to incorporate the efficient building certification practices already in place, clarify the roles of those involved in the building certification process and add rigour and accountability to this essential element of the development process. This will achieve:

- better practices
- better accountability
- better documentation
- better buildings in NSW.

As part of this, we are holding a stakeholder session on the morning of 31 August (from 9am to 3.30pm). This meeting will be held in Sydney CBD, at a

location to be advised.

We are inviting stakeholder organisations to come along to the meeting, so many of you will be represented by your member organisations. However, we are also inviting Expressions of Interests from individuals who are interested in attending.

Individuals who attend would be expected to provide frank feedback on the Model as a solution to improve the system. Specifically, we'd be asking you to think about how the system is working now and how the Model will change or impact the current system, what the implications will be if the Model is implemented. This will allow us to decide whether, and how, we might proceed with the Model.

If you would like to submit an Expression of Interest to attend the stakeholder meeting as an individual, please send an email to policy@bpb.nsw.gov.au by Friday 17 August. Please provide a short summary of your suitability to provide constructive feedback, as described above.

Have your say

Planning Review - community discussions

During August, staff from the Department of Planning and Infrastructure will be hosting community discussions at Wollongong, Queanbeyan, Sydney, Newcastle, Armidale, Parramatta, Wagga Wagga, Dubbo, Coffs Harbour and Ballina.

Community members should register for the events [here](#). Further information is available on the website.

Review of NSW local government

The Independent Local Government Review Panel will be asking councils and community members for their thoughts on the future of local government in NSW during two months of discussions.

The Panel has launched a new website and released a consultation paper for public comment. It will spend the next 12 months holding discussions with the widest possible range of people and organisations throughout NSW.

Several rounds of consultation are planned and a month-long listening tour commenced last month. The tour includes visits to all regions and meetings

in: Broken Hill, Wagga Wagga, Jerilderie, Guyra, Newcastle, Taree, Tamworth, Ballina, Kiama, Orange and Dubbo, as well as several centres across Sydney.

- [Find out more](#)

Draft Boarding House Bill 2012

Councils are invited to make a submission on the draft Boarding House Bill 2012 and the Exposure Draft Boarding House Bill 2012 Position Paper.

The NSW Government intends introducing a new legislative framework to provide better protections for boarding house residents while maintaining the viability of the boarding house sector.

Feedback is invited until 17 August 2012.

- [Find out more](#)

Meeting in Lismore

Feedback received

Many thanks to the private and council certifiers who met with us in Lismore late last month. It was terrific to receive an update from you all on how things are tracking and to test some of our ideas for the future of the building certification in NSW.

One request we heard loud and clear from those who attended was not so much how the Board proposes to change the system to deal with current issues, but how these issues should be dealt with until the changes take place.

As you know, the Board releases Practice Advice, either specifically on our Practice Advice page, or through short articles in the BPBulletin. We usually release this advice based on queries received from certifiers.

However, based on the feedback in Lismore, we think it will be worthwhile to find out which issues you think will be worthwhile to receive the Boards specific advice on. To that end, we invite you to email us at policy@bpb.nsw.gov.au with any issues that you believe should be clarified through our practice advice.

Presentation

We also presented our latest information on our consultation to the Lismore meeting. You can view the presentation [here](#).

Practice advice and reminders

Reminder about site notices

As you would know from previous BPBulletin articles and good practice, the EP&A Regulation requires a PCA to display on a sign in a prominent position on a building site, the PCA's name, address and telephone number, amongst other things.

However, the Board has been made aware that the PCA signs usually only nominate a company rather than the actual PCA. In addition, Councils also need to display their details on development sites for which they are nominated the PCA as the EP&A Regulation also pertains to council PCAs. It is important to the public that the PCA is nominated and able to be contacted should the need arise.

PINs, called penalty notices in the legislation, can be issued for breaches. The amounts are \$250 for individual and \$500 for corporations. Please ensure your PCA signage complies with the legislation as the Board will be embarking on a program this month to ensure the correct PCA details are displayed.

- [View the information sheet](#)

BCA - key changes

The Department of Planning and Infrastructure has released a circular to advise councils, certifiers, industry practitioners and other stakeholders of the key changes made to the Building Code of Australia in 2012 as they apply to NSW.

- [View the circular](#)

Accredited certifiers issuing approval for demolition

The Board has been asked to clarify its position concerning accredited certifiers issuing complying development certificates demolition under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

The authorities conferred on certifiers accredited in categories of accreditation

A1, A2 and A3 under the Building Professionals Regulation 2007 (BP Regulation), currently do not include an authority for the certifier to issue complying development certificates (CDCs) for demolition. These categories enable CDCs to be issued only for building work or a change of use.

The Board has recently considered this matter and has resolved to seek an amendment to the BP Regulation to give building certifiers power to issue CDCs for demolition and removal of development. The draft amendments are expected to be exhibited shortly.

Electronic Housing Code

New funding

Councils across NSW will share in almost \$190,000 in funding to help implement the Electronic Housing Code (EHC).

The funding will assist councils to buy software and computer equipment, undertake staff training and upgrade the land and property information which underpins the system.

The EHC is already operational in Bankstown, Blacktown, Lake Macquarie, Port Macquarie, Rockdale, Shellharbour, Sutherland, Tamworth, The Hills and Tweed councils.

The EHC is being implemented in conjunction with the Local Government and Shires Associations of NSW. Additional councils will be invited to submit expressions of interest to join the program later this year.

- [Find out more](#)

Call for certifiers

The Department of Planning & Infrastructure is looking for additional accredited certifiers to join the EHC project. Interested parties will need to submit an Expression of Interest by clicking [here](#). The Expression of Interest process will close at 5pm 3 September 2012.

A briefing session will be held on 16 August 2012 for interested certifiers at the Departments Bridge Street office. While 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 and a webinar session will be held for those in regional NSW. To RSVP,

please [click here](#).

Councils currently involved in the EHC project are also required to submit an Expression of Interest (EOI) if they wish to amend the local government areas they provide certifying services for.

An independent selection panel will the additional certifiers. The final decision will be announced in October 2012.

News from the Accreditation Team

Dont forget:

- There is still no application fee incurred for new applications for accreditation for council accredited certifiers. The \$250 fee is still relevant for renewal applications and can be paid by EFT, Visa, Mastercard or cheque.
- Notification letters sent by the Board to remind certifiers to renew their accreditation will no longer be accompanied by a renewal form. Youll be able to download the form from our website click [here](#) or go to the Publications and Forms section of our website and click on Forms.

The Accreditation Team would also like to thank everyone for their patience at this time while we manage an influx of accreditation renewal applications.

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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

BPBulletin



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Another opportunity to have your say

We have a new online survey and issues paper for you to look at on the issue of liability for building actions under the EP&A Act.

- [View the issues paper](#) | [View the online survey](#)

Don't forget, our survey on Part 4A certificates and pre-conditions is still open until 20 August 2012

- [View the issues paper](#) | [View the online survey](#)

Reporting back

We have summarised the results of our online surveys and shall report back on these over the next few weeks.

- [View the results of the component certificates online survey](#)
- [View the results of the compliance of built work survey](#)

Update: EOIs for Better Buildings Model forum

As advised in our last BPBulletin, our next big step is a stakeholder session on 31 August to discuss a Better Buildings Model for the future of the building regulation and certification system in NSW.

Thanks to those who have expressed an interest in attending. We will confirm location and attendees by the end of next week.

Practice advice

Mandatory installation of sprinkler systems

The NSW Government has announced the mandatory installation of automatic sprinkler systems in all new and existing Commonwealth accredited residential aged care facilities in NSW.

[View the dedicated webpage](#)

Fees for initial fire safety reports

Under clause 144 of the EP&A Regulation, an application for a construction certificate is referred to Fire & Rescue NSW by the certifying authority. The resulting initial fire safety report is then provided by Fire & Rescue NSW to the certifying authority. Under section 42(1)(c) of the *Fire Brigades Act 1989*, Fire & Rescue NSW is entitled to payment for the provision of the initial fire safety report from the person who has requested the initial fire safety report (whether or not the request is made in compliance with any law).

As a result of the current legislation, it is the responsibility of the certifying authority to ensure the fee for an initial fire safety report is paid to Fire & Rescue NSW.

NSW Rural Fire Service practice notes

The NSW Rural Fire Service has recently released two Practice Notes regarding planning and development in bush fire prone areas:

Practice Note 4/12 - 'In principle' Masterplan Agreements in Bush Fire Prone Land: This Practice Note is designed to provide best practice guidelines for 'in principle' agreements by the NSW Rural Fire Service (RFS) for masterplans within bush fire prone areas. Practice Note 5/12 - Reuse of Rezoning Reports on Bush Fire Prone Land: This Practice Note provides guidance on when bush fire assessments prepared as part of a rezoning in a bush fire prone area can be used for subsequent development applications submitted to the NSW Rural Fire Service (RFS). [Read the practice notes](#)

News from the Board

Commercial approaches

We've been made aware by some of our certifiers that an insurance company has made marketing approaches to accredited certifiers, at the direction of the BPB.

The Board **does not** endorse or recommend any providers of professional indemnity insurance. If certifiers are approached by insurance providers it is not at the direction of the Board.

It is worth reminding certifiers, however, that their business contact details are publicly available on the Boards website under the find a certifier database. This database of information is included on the website to assist the public; the Board does not endorse any company using your contact details for marketing purposes. Certifiers private residential and contact details are not provided on the Boards website.

Accreditation Scheme update

The latest version of the Boards Accreditation Scheme dated 3 August 2012 is now on the Board's [website](#).

Schedule 3 Part 2 has been amended to recognise all previous versions of the Diploma in Building Surveying, such as the Associate Diploma in Environmental Health and Building Surveying, for private accreditation in Category of Accreditation A3. This amendment has been made by the Board in response to requests made by council officers during the consultation sessions held earlier this year.

In addition, the Accreditation Statements for Categories A3 and A4 have been amended to reference the current competencies of the Diploma of Local Government (Environmental Health and Building Assessment) and the previous versions of the relevant units of competence.

Upcoming events

AAC Seminar

The AAC Seminar: Drainage, Balustrades & Complying Development Q&A will be held on Wednesday 29 August, 3pm 6pm at the Parramatta Leagues

Club.

Drainage: Presenter, John Forrest, will discuss the requirements of the BCA relating to drainage, the contribution rainwater tanks to urban water consumption, requirements of the relevant Australian Standard, the impact of BASIX, and how LGA Stormwater Policies impact on the decisions of accredited certifiers in relation to complying development and the SEPP Codes. **Balustrades:** John will also discuss what structural issues should concern accredited certifiers when inspecting and certifying the installation of balustrades, the difference between structural considerations from human impact issues, the structural considerations when assessing, inspecting and certifying balustrades that include wire, and whether there are issues in the BCA that certifiers need to consider. **Complying development Q&A:** Complying development is a complicated area and many certifiers have questions about the interpretation of some of the legislation. Craig Hardy will facilitate a question and answer session on complying development issues.

- [More information & register](#)

AAC conference

The AAC conference *A Profession for Professionals* aims to raise the bar for certification.

Date: Friday, 14 September 2012

Venue: Doltone House on Jones Bay Wharf, Pyrmont

[More information and register](#) *Early bird registration closes: 30 August 2012.*

Have your say

Regional consultation tour - A New Planning System for NSW

Dont forget the [consultation tour](#) is underway to discuss proposals outlined in the NSW Governments Green Paper on the NSW Planning System.

The Green Paper was launched in July by Minister for Planning and Infrastructure Brad Hazzard. Public submissions can be lodged until 14 September, while councils have been given an extension for submissions until 5 October.

The public can also keep up to date on the regional consultation events for

the Green Paper by following [@NSWPlanning](#) on Twitter. Tweet [#newplanningsystem](#) to be a part of the conversation.

National licensing proposals open for comment

Consultation Regulation Impact Statements outlining proposals to reform occupational licensing for property, plumbing and gasfitting and refrigeration and air-conditioning occupations have been released by the COAG National Licensing Taskforce.

The documents outline three possible options for occupational licensing reform. The refrigeration and air-conditioning occupations Consultation RIS also explores the option of no licensing (except for the Commonwealth Arctick licence).

Consultation is open until 21 September 2012.

- [Find out more](#)

News from the Accreditation team

Some more reminders from the Accreditation Team:

We have uploaded revised renewal applications for private and council certifiers which show the Boards changes in contact details and an amended Statutory Declaration relating to CPD requirements, noting that the declaration must be signed at least by a Justice of the Peace. Council accredited certifiers dont forget - please do not provide Council's street address as your residential address on renewal applications or applications for accreditation. Your private details are kept confidential at all times and are not made available to the public. If you have changed your address, please provide the Board with a certified copy of the front and back of your drivers licence.

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Building Professionals Board

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Message from the President

In this edition of the BPBulletin, we report on the successful Better Buildings Model forum held at the end of last month on the future of the building certification system in NSW. This forum proved to me that many in the industry want to be involved in delivering a system that supports better and safer buildings for the community.



The media reporting of recent tragic events in Bankstown has brought the certification system into question, with some commentators casting blame on the certification system almost as soon as the news was reported. While the Minister is eager to crackdown on those in the industry who don't perform to the highest levels - and we will work with him to ensure that this happens - it is the Board's view that the majority of those in this industry work diligently to deliver the highest quality results. However, there are definitely ways in which the system can be improved, and many of you have highlighted these issues to the Board throughout our consultation program this year.

The Better Buildings Model is one step in helping us to address issues, and to better define the roles and responsibilities of all professionals involved in the building, regulation and maintenance of a building. Combined with a stronger penalty framework, the Model can mandate the best practice approaches used by the majority of certifying authorities, and ensure the onus for better quality and safer buildings is spread across practitioners, including those who construct and design buildings.

We will await formal investigations into the Bankstown fire and have commenced an investigation under the BP Act into the certification of the building. We will continue to work with the NSW Government and our industry

to achieve an appropriate and safety-driven outcome.

Sue Holliday
BPB President

Consultation update

Better Buildings Model - stakeholder forum

The Board held a successful forum last Friday into the Better Buildings Model. Attended by nearly 80 people, the forum went through a number of case studies that illustrated how the proposed Model will work in practice. This allowed attendees to give feedback on whether the elements of the Model are workable, cost and time effective, and whether they will achieve better buildings for NSW.



Board President Sue Holliday and Director Neil Cocks wrote to attendees last week to thank them for their enthusiasm on the day it brought up a number of issues with the current building certification system, and has given the Board the feedback needed to put forward some of the ideas to be included in the upcoming White Paper on the planning system review.

Attendees were provided with a background paper on the proposed Model in advance (you can view the background paper [here](#)). The Model is at this stage a draft Model that is being tested with stakeholders before a more detailed Model will be placed on exhibition for full public consultation.

Reporting results

Further summaries of the online surveys results are below:

- [View the results of the PCA contract survey.](#)
- [View the results of the survey into CDC and CCs for work already undertaken](#)

PCA contract survey clarification

Our survey on the PCA contract incorrectly suggested that anyone can be the applicant for a CDC. After feedback from certifiers, we confirm that the EP&A Act specifies (in section 84A(2)) that the owner's consent is needed to apply for a CDC if the owner is not applying themselves. Unlike for CCs, however, the Act does not specifically prevent a developer or builder applying for a CDC unless they are also the landowner.

Events

National licensing information sessions

The COAG National Licensing Taskforce will hold information sessions in Sydney on 13 and 14 September to discuss the proposed reform of national licensing. There will be a separate session for electrical, plumbing and gasfitting, property and refrigeration and air-conditioning. All session times include a 30 minute registration period.

Sydney - 13/14 September	Quay Grand Suites 61 Macquarie St, East Circular Quay
Refridgeration and air-conditioning	9am 12.30pm, 13 September 2012
Electrical	1.30pm 5pm, 13 September 2012
Plumbing and gasfitting	9am 12.30pm, 14 September 2012
Property	1pm 4.30pm, 14 September, 2012

Have your say

Training programs for CDCs

The Board is planning for CDC comprehensive training programs for 2013. The criteria that will be followed by CPD providers to develop programs will benefit from input from certifiers.

You are invited to consider the specific training that will be required to improve the issuing of complying development certificates and to identify the content that should be included in the training programs. Please fill out this quick survey by 27 September 2012.

- [Let us know your thoughts.](#)

Smoke alarm RIS

The Australian Building Codes Board has released the Smoke Alarm Consultation Regulation Impact Statement (RIS) for public comment.

The closing date for submissions is 21 September 2012.

- [Find out more](#)

Practice advice

New Gas Supply (Consumer Safety) Regulation

The new Gas Supply (Consumer Safety) Regulation commenced on 1 September. This continues the regulatory framework for gas appliances connected to networks and non-networks, gas installations, autogas, licensed gas fitters and the testing of gas meters.

- [Find out more](#)
- [View the Regulation](#)

Request for tender - accessible accommodation

The Commonwealth Department of Resources, Energy and Tourism has issued a Request for Tender to engage a suitably qualified consultant to undertake a study to examine the demand for, and supply of, accessible accommodation.



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GREEN PAPER

SUMMARY OF
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Green Paper update

More than 1,200 planning practitioners and 330 community members have participated in roundtable workshops about the Green Paper on a new planning system for NSW.

The Department of Planning & Infrastructure also visited 10 regions around NSW during August and September and attended more than 20 stakeholder events to discuss the Green Paper. Nearly 200 comments have been posted on the online forum.

Feedback gathered from the consultation sessions is now available online, with submissions to soon be made publicly available.

- [View the feedback](#)

Summary of complaints and investigations

The Board has released its latest Summary of complaints and investigations, a practical summary of recent complaint matters.

- [View the Summary](#)

Have your say

Proposed Building Professionals Amendment (Accreditation) Regulation 2012

Dont forget, the Board is seeking feedback about a proposed amendment to the Building Professionals Regulation 2007 that would enable accredited certifiers who hold Category A1, A2 or A3 accreditations to issue a complying development certificate (CDC) for the demolition or removal of buildings. The proposed [regulation](#) and accompanying [explanatory note](#) are on exhibition until **12 October 2012**.

Until the amendments are made, for development that involves both demolition and building work, both private and council accredited certifiers can issue a CDC where the demolition is incidental and necessary to the building work which is the subject of the CDC. In such cases, the demolition is considered to be building work as defined under section 4 of the EP&A Act as it is a physical activity involved in the erection of a building.

Council officers are not required to be accredited to issue CDCs for demolition that does not involve building work, provided they have the relevant delegation from Council. Private certifiers are unable to issue CDCs for demolition that does not also involve building work.

This applies to the issue of CDCs under the Codes SEPP and a council's LEP or LEP for complying development.

Proposed mandatory professional indemnity insurance for property industry

Fair Trading is seeking feedback from industry and consumers by 5 October about a proposal to introduce mandatory professional indemnity insurance for licensed property occupations.

A draft Regulation proposes that from 1 January 2013 all licensees under the Property, Stock and Business Agents Act 2002 be required to hold a minimum of \$1 million professional indemnity insurance.

- [Find out more](#)

Strata and community title law review

The NSW Government is reviewing the strata and community title laws and has released a discussion paper that examines matters relating to strata governance, financial management, building management and handling of disputes.

The discussion paper is available from the [Fair Trading website](#). Please have your say by 15 November 2012.

Draft guideline clarifies use of Schedule 1 in Standard Instrument

The Department of Planning & Infrastructure is seeking feedback by 15 October 2012 to a [draft practice note](#) relating to the Standard Instrument. The proposed practice note provides guidance to councils on including additional permitted uses for particular land through Schedule 1 of local environmental plans (LEPs).

- [Find out more](#)

Building surveying training package review

The Construction & Property Services Industry Skills Council (CPSISC) manages the project to review, develop and redevelop the nationally endorsed CPC08 Building Surveying Framework for Building Surveying on behalf of industry.

The project will deliver qualifications that meet the needs of the building surveying sector and to reflect current Training Packages as specified by the National Skills Standards Council (NSSC) and the Department of Industry, Innovation, Science, Research and Tertiary Education.

The project will deliver high quality units of competency and appropriate higher qualifications that meet the needs of enterprises and reflect regulatory requirements while also adhering to the demands for national endorsement by the NSSC and inclusion in the CPC08 Construction, Plumbing and Services Training Package. It will involve consultation with industry associations, regulators, employers, employees, associations, Registered Training Organisations (RTOs), Industry Training Advisory Bodies (ITABs) and State Training Authorities (STAs).

A workshop of three hours will be held in Sydney on **1 November 2012 from 1pm** to advance the project. The workshop will help CPSISC to gather primary evidence from practitioners of the workplace functions they perform and the skills and knowledge they require to undertake the work.

More information about registering will be provided in future BPBulletins. If you are interested make sure you can clear your diary in the afternoon.

Red tape review of local councils in NSW

A review of local councils is looking into how councils in NSW implement and enforce regulations. The review aims to reduce unnecessary regulatory costs (red tape) on business and the community.

The review is looking for specific examples of unnecessary regulatory costs, and specific, practical solutions to identified problems. Submissions are welcome by 29 October.

To find out more, view the [issues paper](#)

Practice advice and training

Sprinklers to be compulsory in NSW nursing homes

New and existing residential aged care facilities across NSW will be required to install automatic sprinkler systems to reduce the fire risk for elderly and vulnerable residents.

- [Find out more](#)

Understanding upgrading sprinkler systems in aged care facilities

The AIBS is holding a Twilight seminar into this issue on **Wednesday 17 October**. The seminar will identify buildings requiring upgrades, how what where and why and those buildings that are exempt.

- [Register here](#)

Planning and development in bush fire prone areas

The NSW Rural Fire Service has released a number of new practice notes and fast facts in relation to planning and development in bush fire prone areas.

- [View updated development control practice notes](#)
- [View updated fast facts](#)

RFS has also released the [Document Master List](#) that outlines how 'policy in practice' operates within the NSW RFS and the role of Fast Facts and Practice Notes.

Issuing strata certificates

A certifier accredited in category D1 - Strata Certification under the Board's Accreditation Scheme has authority to issue a strata certificate for a development where the relevant application for development consent was lodged with the consent authority after 1 June 2000. Development consent includes a complying development certificate.

One of the requirements that must be met before an accredited certifier can issue a strata certificate under the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986* for a proposed strata plan, strata plan of subdivision or a notice of conversion is that there must be a relevant development consent in force.

Sections 37B(1) and section 66B(1) respectively of the above Acts state that a relevant development consent is in force in relation to a proposed strata plan or strata plan of subdivision if:

(a) development consent is required to the subdivision the subject of the proposed strata plan or strata plan of subdivision and the development consent has been granted, or

(b) such development consent is not required but development consent is required with respect to the building concerned and development consent has been granted to building work in respect of a building, or a change of use of a building, having proposed lots designated for separate occupation as illustrated by the plan, and the development consent has not lapsed.

In relation to a notice of conversion, sections 37B(2) and section 66B(2) provide that a relevant development consent is in force if:

(a) development consent is required to the conversion the subject of the notice and the development consent has been granted, or

(b) such development consent is not required but development consent is required with respect to a change of use or building work associated with the conversion and the development consent has been granted, and the development consent has not lapsed.

The "Relevant Development Consent No." part of the strata certificate must be properly completed. Land and Property Information (NSW Department of Finance and Services) will check this part of the strata certificate when lodged, and will send a requisition if necessary.

New DCP for Ryde

Ryde Council has adopted a new development control plan, an urban forest

policy and a technical manual to guide the preservation and management of trees within the local council. The documents include Urban Forest Policy, Part 9.6 Tree Preservation of the Development Control Plan 2010 and Urban Forest Technical Manual and are available from council's [website](#). These documents take effect on 1 October 2012.

Certifiers are advised to have regard to these plans/policies when undertaking work within Ryde Local Government Area.

Section 94A Contributions Plans for Burwood LGA

Certifiers are advised that from 1 September 2012 developer contributions under section 94A of the EP&A Act apply to all development in the Burwood Local Government Area, including complying development.

- [Find out more](#)

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Important Note

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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



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EP&A Amendment (Disability access, fire reports and spas) Regulation 2012

An Amendment Regulation has been released for exhibition, covering the Premises Standards, referrals to NSW Fire and Rescue and how to remove safety risks around swimming pools and spas.

- [View an information sheet](#)
- [View the draft Regulation](#)

The Premises Standards

The Amendment Regulation will insert a new Part (Part 11) into the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) relating to disability access requirements. Specifically, it:

- establishes a new process which requires proposals that involve unjustifiable hardship under the Premises Standards to be referred to an independent panel for advice before applications for construction, complying development and occupation certificates are determined
- specifies how the disability access requirements of the BCA apply to Crown building work, including work certified to comply with the BCA before 1 May 2011 but not commenced before that date.

Referrals to NSW Fire and Rescue

The Amendment Regulation enables the NSW Fire Commissioner to determine whether an initial fire safety report under clause 144 of the EP&A Regulation and a final fire safety report under clause 152 will be provided.

Swimming pools and spas

The Amendment Regulation prevents an OC for a spa or swimming pool being issued until the spa or pools recirculation system is certified as complying with the relevant Australian Standard.

Exhibition

The Amendment Regulation will be on exhibition until 9 November 2012. To have your say

email: policy@bpb.nsw.gov.au

write to:

The Director
Building Professionals Board
PO Box 3720
Parramatta NSW 2124

More information

Email bpb@bpb.nsw.gov.au or call 9873 8537 with any questions.

Codes SEPP exhibition

The Department of Planning and Infrastructure is seeking feedback on proposed amendments to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) and the Environmental Planning and Assessment Regulation 2000.

The proposed amendments will ensure complying development across the State meets a broader range of needs and is consolidated under one document.

- [Find out more](#)

Building surveying and drafting qualifications: workshops

Further to the article in our last BPBulletin regarding the Construction & Property Services Industry Skills Council (CPSISC) project to review, develop and redevelop the **nationally endorsed CPC08 Building Surveying Framework for Building Surveying** please note that the **1 November** workshop for this project will be held from **1pm to 4pm** at:

Sterling Room
Parramatta Leagues Club
13-15 OConnell Street
Parramatta

The workshop is intended to gather practical evidence about the nature of the

work undertaken by building surveyors. This will inform the redevelopment of the existing building surveying qualifications.

To register to attend, please email buildingsurvey@cpsisc.com.au. As this is a national project, with workshops around the country, please confirm in the email that you wish to attend the 1 November 2012 workshop in Parramatta.

Please also note that the CPSISC is commencing a project to develop a **national competency based Certificate IV in Drafting qualification**.

A workshop will be held at the above location from **9am to 12 noon on 1 November** to inform the development of the new competency based qualification.

If you can attend please email drafting@cpsisc.com.au and indicate which city workshop you are attending.

Affordable Housing SEPP amendments

The Department of Planning and Infrastructure recently amended State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Standard Instrument Order to clarify the size of group homes that can be approved through complying development and to clarify who can occupy a group home development.

These amendments commenced on 5 October 2012. They:

- inserted definitions of "permanent group home" and "transitional group home"
- inserted a clause to clarify what "people with a disability" and "people who are socially disadvantaged" means
- amended clause 45(1) to impose a 10 bedroom limit for group home developments when carried out as complying development.

The Standard Instrument Orders dictionary has also been amended to insert the same definitions.

These amendments ensure group homes approved as complying development under the SEPP will be of a suitable size and cater to the appropriate people. Group homes larger than 10 bedrooms will need development consent from the relevant consent authority.

Practice advice

Correct insurance details

To ensure the Board does not reject an application for renewal, accredited certifiers must submit a certificate of currency that includes all the information specified in the pro forma certificate of currency attached to their renewal application form.

The insurance needs to satisfy section 63 of the BP Act and Part 4 of the BP Regulation.

As you know, certifiers can be liable for legal action for up to 10 years after undertaking certification duties. Certifiers nearing retirement, or who have already retired, are recommended to obtain runoff insurance or should continue to obtain insurance annually to cover that period.

OCs and conditions of consent

The Board has been advised that many certifiers consider any reference to an occupation certificate (OC) in a condition of consent only applies to final OCs and that section 109H(2) of the EP&A Act is limited to a final OC.

In summary, section 109H(2) prevents an OC being issued until any preconditions to the issue of the certificate, specified in a development consent or CDC, or as a requirement of a planning agreement, have been met.

Under section 109C(1)(c) of the EP&A Act, an OC is a certificate that authorises either the occupation and use of a new building, or a change of building use for an existing building. Further, section 109C(2) clarifies that an OC may be an interim certificate or final certificate.

If a condition states that an OC cannot be issued before satisfying certain matters, this refers to either an interim OC or a final OC. Neither should be issued until those matters are satisfied.

When imposing pre-conditions for OCs, consent authorities should clarify at what stage (for example, before issuing any OC or before issuing a final OC) the condition must be satisfied.

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BPBulletin



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Express your interest: focus groups on complying development certificates

Recently the Board conducted a survey about proposals for continuing professional development (CPD) for accredited building surveyors on the topic of complying development certificates (CDCs).

Accredited certifiers are invited to submit their interest in taking part in a focus group to examine the feedback from these surveys. It is anticipated the focus groups will be convened in mid November, each for half a day.

The Australian Institute of Building Surveyors (NSW Chapter) and the Association of Accredited Certifiers (AAC) have agreed to allocate CPD points for the focus groups.

Register your interest by emailing bpb@bpb.nsw.gov.au

Proposed Building Professionals Amendment (Accreditation) Regulation 2012

The exhibition of proposed amendments to enable accredited certifiers who hold Category A1, A2 or A3 accreditation to issue a complying development certificate (CDC) for the demolition or removal of buildings, has closed.

Thank you to those who provided a submission. The

submissions are currently being reviewed.

Building surveying training package review

The Construction & Property Services Industry Skills Council (CPSISC) is the national body responsible for developing national qualifications for the Vocational Education and Training (VET) sector for the construction and property services industry, including the Diploma of Building Surveying and the Advanced Diploma of Building Surveying.

CPSISC has commenced a review of these diplomas as they are about 10 years old.

As part of the review, CPSISC is holding workshops around Australia. See the [invitation](#).

The workshops will provide opportunities to examine the roles and functions of building surveying and provide building surveyors across Australia with the opportunity to influence the competencies that should be included in the training package.

The Sydney meeting is to be held on 1 November 2012 from 1:00pm to 4:00pm at the Sterling Room at Parramatta Leagues Club, 13-15 OConnell Street, Parramatta

The Board will recognise the workshops as three hours of CPD for council accredited certifiers and the AIBS and AAC have agreed to allocate CPD points for attendance by private accredited certifiers.

RSVP: buildingsurvey@cpsisc.com.au (please indicate which workshop you are attending)

Job opportunity - Senior Departmental Investigator (Clerk 9/10)

Applications for the position of Senior Departmental Investigator with the Board, based in its offices at Marist Place, Parramatta, will close Sunday 28 October 2012.

To find out more, visit the [link](#).

Have your say

Fire safety in residential aged care facilities

The Department of Planning and Infrastructure has released draft amendments to the Environmental Planning and Assessment Regulation 2000 and state environmental planning policies for comment, together with a draft technical standard for sprinkler systems, to support the government's decision to make sprinklers compulsory in residential aged care facilities.

The draft documents and explanatory information are available at www.planning.nsw.gov.au/proposals.

To comment on the proposals:

- email sprinklers@planning.nsw.gov.au
- post to Sustainable Systems, Department of Planning and Infrastructure, GPO Box 39, Sydney NSW 2001

Submissions close on 14 November 2012.

Enquiries may be directed to the Department of Planning and Infrastructure on ph (02) 9228 6258.

Proposed EP&A Amendment (Disability Access, Fire Reports & Spas) Regulation 2012

Dont forget, the Board is seeking feedback about proposed amendments to the Building Professionals Regulation 2007 covering the Premises Standards, referrals to NSW Fire and Rescue and how to remove safety risks around swimming pools and spas. The [draft Regulation](#) and an [information sheet](#) are on exhibition until 9 November 2012.

Email submissions to: policy@bpb.nsw.gov.au

or write to:

The Director
Building Professionals Board
PO Box 3720
Parramatta NSW 2124

Email bpb@bpb.nsw.gov.au or call 9873 8537 with any questions.

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News from the Board

Revised application forms for council certifiers

Revised accreditation application forms for council certifiers are now on the Boards [website](#)

Please use the revised forms to apply for a different category of council accreditation or to have conditions removed from your council accreditation. The forms provide examples of the information applicants need to provide to demonstrate experience.

To renew your council accreditation, use the renewal form

For further information, call the Board on (02) 9873 8537 or email bpb@bpb.nsw.gov.au

Amendments to the Boards Accreditation Scheme

Transitional arrangements for council accredited certifiers after 1 March 2013

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, before 1 March 2013, in a qualification recognised by the Board.

To be eligible council accredited certifiers need to:

- 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

The amendment commences on Friday 26 October 2012.

For all accredited certifiers: recognition of Ordinance 4 for private accreditation

The Accreditation Scheme has been amended to recognise Ordinance 4 building surveying as satisfying the specialty performance criteria for private accreditation in Category A3 Accredited certifier building

surveying grade 3.

The amendment commences on 26 October 2012.

For all accredited certifiers: extension of time to apply for accreditation after completing the Certification Short Course

The Accreditation Scheme has been amended to allow applicants 12 months to apply for accreditation after completing the Certification Short Course. The Board can also grant an extension of the 12 months in exceptional circumstances.

The amendment commences on Friday 26 October 2012.

Events

Apartment Living Seminar: Off the Plan, not Off the Planet

The Owners Corporation Network (OCN) will host two special half-day seminars, presented by experts in the strata field, legal professionals, building consultants and experienced apartment owners:

Seminar 1: Saturday 27 October 2012 - **Buying a New Apartment or Off the Plan**

Seminar 2: Saturday 24 November 2012 - **Buying into an Older Building**

The seminars will be held at the Kirribilli Club in Milsons Point (9.30am 12.30pm). [More information](#)

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EP&A Amendment Bill 2012

The *Environmental Planning and Assessment Amendment Bill 2012* has been introduced into Parliament.

The Bill introduces the first stage of changes identified through the Boards consultation on the Better Buildings Model. The balance of the changes will be included in the White Paper being prepared for the NSW Planning System Review.

The changes in the Bill will:

- better ensure consumers have a clear relationship with the certifying authority through a written contract
- enable councils to better gain compliance with development consents by extending the use of compliance cost notices
- enable the necessary expertise to be brought into building certification system meaning that in the long term, all the essential parts of the process will be subject to appropriate certification and oversight
- enable the transfer of relevant records when a new principal certifying authority is appointed

The Bill will also improve the regulation of accredited certifiers by enabling assessment of their skills and experience by the Board where issues arise. The Board will be required to take a certifiers previous disciplinary history into account when determining the appropriate sanctions following a complaint investigation.

The Bill has been passed by the Legislative Assembly and is expected to be debated in the Legislative Council in mid-November.

- [Read the bill](#)
- [Read the explanatory notes](#)

- [Read the Second Reading Speech.](#)
-

Have your say

Proposed Statewide template changes

Feedback is being sought on recommendations to change the Statewide template that is used to update local environmental plans (LEPs). The recommendations made by the Local Planning Panel include giving greater flexibility to local councils.

The Statewide LEP template is used as the basis for all new council-wide planning instruments. Already nearly half of the 152 councils across NSW have a standard template LEP in place, with nearly all other councils in the process of preparing one.

The Local Planning Panels recommendations include retaining a number of provisions, as well as some proposed changes to the language and structure of standard instrument LEPs, additional zones and greater flexibility to respond to local needs.

The panels Position Paper and recommendations are on exhibition until **Friday 30 November 2012**.

Documents and details about how to lodge a submission are available on the [Departments website](#).

The Department has also placed a [draft planning circular](#) on exhibition. The draft circular is intended to provide assistance to local government and the development industry on how to define and characterise particular types of development under the Standard Instrument.

You can have your say on the proposed circular by **14 November 2012** by writing to the Project Delivery Unit, Department of Planning and Infrastructure, GPO Box 39, SYDNEY NSW 2001.

IPART review: licences

There are currently about 1,000 different types of licences in NSW. They cover every aspect of the economy - including trades and professions, transport and motor vehicles, environmental protection, health, education, liquor, gaming and recreational activities.

The NSW Government has asked IPART to review licences in NSW and identify those licences where reform would produce the greatest reduction in costs to business and the community.

As part of the review, IPART has released an [Issues Paper](#) and a short [online survey](#) for licence holders.

Submissions can be made [online](#) or by emailing: LicenceReform@ipart.nsw.gov.au.

Don't forget: Fire safety in residential aged care facilities

The public is being invited to comment on proposed requirements to support the governments decision to make sprinklers compulsory in residential aged care facilities.

Details of the proposed amendments to the Environmental Planning and Assessment Regulation 2000, state environmental planning policies and a draft technical standard for sprinkler systems are being exhibited for comment until **14 November 2012**.

To find out more about the fire safety proposals, including the Departments policy on publishing submissions, go to www.planning.nsw.gov.au/proposals.

Review of the Guideline on the Application of the Premises Standards

The Australian Human Rights Commission has updated the Guideline on the Application of the Premises Standards, first issued in March 2011. Over 180 comments were received from building professionals, advocates, government agencies and associations.

This update is not a review of the Premises Standards themselves, but rather an attempt to draw on the experiences of building professionals, regulators, access experts and advocates over the first 18 months of implementation of the Standards to identify any aspects of the Guideline that could be expressed more clearly.

Before finalising the update, the Commission invites any further comments to be forwarded to disability@humanrights.gov.au by **26 November 2012**.

- [View the original Guideline and draft updated Guideline.](#)

Plan-making changes

The Minister for Planning and Infrastructure [announced](#) two key changes to the plan-making process for Local Environmental Plans (LEPs) that commenced on 2 November 2012.

The first change introduces opportunities for applicants (namely landowners or developers) and councils to request a review of decisions made at key stages during the process of assessing and deciding on a proposal to rezone land.

The second change will return power to councils to allow them to finalise particular kinds of LEPs.

Detailed information is available in the [Planning Circular](#) and the [Frequently Asked Questions](#) document.

New super tribunal

The Administrative Decisions Tribunal (ADT) is to be incorporated into a new super Tribunal, the NSW Civil and Administrative Tribunal (NCAT), which is to commence operations in January 2014.

- [Find out more](#)
-

Supreme Court decision

On 18 October 2012 the Supreme Court handed down its decision on a question in *The Owners - Strata Plan No 69312 v Rockdale City Council & Anor; Owners of SP 69312 v Allianz Aust Insurance [2012] NSWSC 1244* as to whether the effective height of the relevant building, within the meaning of the Building Code of Australia, was 26 metres.

The Owners Corporation of a mixed commercial and residential strata scheme brought an action against Allianz Australia Ltd and Rockdale City Council, claiming that:

- Allianz (which issued the Home Warranty Insurance (HWI) policy) must indemnify the Owners Corporation for loss and damage it allegedly suffered in rectifying defects in the construction of the building associated with fire safety measures associated with buildings of 25m or more not being installed
- the Council (as approval body and principal certifying authority) was negligent in its discharge of its duties, and must pay damages.

Effective height is defined in the BCA as:

the height to the floor of the topmost storey (excluding the topmost storey if it contains only heating, ventilating, lift or other equipment, water tanks or similar service units) from the floor of the lowest storey providing direct egress to a road or open space.

In the building in question, both the upper ground level and lower ground level (a basement car park) provided direct access to the street the former via a pedestrian doorway; the latter via a driveway. The upper ground level had a RL one metre higher than the lower ground level. The two levels were connected by stairs.

The Court was satisfied that each level was a storey as defined by the BCA. The Court was also satisfied that each level provided a means of exit from the building via a pathway reasonably accessible to the whole, or at least a substantial part, of the building directly to a road or open space.

The case depended on whether the effective height was to be measured from the upper ground level or the lower ground level, given that measuring the height from the lower ground level would mean that the building was 26m in terms of the definition and result in more extensive fire safety requirements having to be met^[1].

In making its judgement, the Court ultimately focused on the use of the term egress in the definition of effective height and stated:

In my opinion, the fact that, in the abstract, the pedestrian entrance at the upper ground level could have qualified as a point of egress to which the definition of effective height referred, does not detract from the fact that the vehicular entrance to the car parking area at the lower ground level also fell within that description. The definition of effective height was not inconsistent with a building having points of egress at more than one level.

In my opinion, the lower ground level was the "lowest storey providing direct access to a road or open space of the proposed building". Accordingly the "effective height" of the proposed building was 26 metres.

[1] Fire safety requirements for buildings 26m and taller are a suitable sprinkler system for the whole building; a minimum of two fire exits; automated stair pressurisation systems; a fire control centre, and an early warning information system or an alternative suitable fire safety system).

[Association of Accredited Certifiers seminar: Fire and Rescue NSW](#)

The AAC is hosting a fire seminar to explain what actually happens when Fire and Rescue NSW (FRNSW) firefighters turn up at a fire incident in terms of operational issues, search and rescue, use of hydrants and other issues.

FRNSW will present case studies of actual recent fire events in NSW, including the recent Bankstown fire, and will cover:

- fire safety systems - what worked and what didn't work
- implications of an atrium in a fire event
- flashover fire in an apartment
- common fire safety concerns in residential apartment buildings
- effective height requirements of buildings
- combined sprinkler/hydrant systems common design and installation problems and errors
- location of fire hydrant booster assemblies - common design and installation problems and errors
- EPS panels in construction - hazards to FRNSW and occupants
- FRNSW's recommendations to mitigate risk when using EPS panels in construction.

The seminar is being held on **Tuesday 4 December 2012** from 3pm to 6pm at Citigate Central Sydney, 169-179 Thomas Street, Sydney.

- [Register and find out more.](#)

[Apartment living seminar: off the plan, not off the planet](#)

The Owners Corporation Network (OCN) will host a second special half-day seminar, presented by experts in the strata field, legal professionals, building consultants and experienced apartment owners:

- Seminar 2: Saturday 24 November 2012 - Buying into an Older Building

The seminar will be held at the Kirribilli Club in Milsons Point (9.30am - 12.30pm).

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Building Professionals Board
PO Box 3720
Parramatta NSW 2124



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UPDATE ON BETTER BUILDINGS MODEL

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Update on the Better Buildings Model

NSW Planning System Review: White Paper

As 2012 draws to a close, many of you may be after an update on all the consultation that has taken place throughout the year especially those of you who attended our stakeholder forum into the Better Buildings Model in August.

Much is happening in this regard:

- **The EP&A Amendment Bill 2012 has been passed:** among other things, this introduces a number of outcomes as identified in the Better Buildings Model (more detail on the Bill is below)
- **The Board has had significant input into the Planning Review White Paper:** the Boards input to the White Paper represents the first step in recognising key elements of the Better Buildings Model within the NSW planning system.

The White Paper is expected to be placed on exhibition before Christmas and will be on exhibition well into 2013.

The Board recently passed the milestone of accrediting over 500 private certifiers, and we also accredit 866 council accredited certifiers that's a lot of you who influence the way certification works in the State and now is the time for you to influence the way the system will work in the future.

We'll be reporting to you as soon as the White Paper is released and we'll also make sure you know all about the consultation process during exhibition.

Legislation updates

EP&A Amendment Bill 2012

The Environmental Planning and Assessment Amendment Bill 2012 has passed through the NSW Parliament.

It introduces changes to reduce bureaucratic red tape, tighten controls on accredited certifiers and make it easier to publish planning information.

The new laws will take effect after the Environmental Planning and Assessment Amendment Bill 2012 is proclaimed by the Governor of NSW and some amendments are made to the Environmental Planning and Assessment Regulation. It is anticipated these steps will be completed early in 2013.

Specific impacts on the certification system include:

- The Board will now have the power to formally recognise a wider range of industry professionals, architects or land surveyors to undertake certification functions. This will increase the number of endorsed experts available in the marketplace and make it easier for certifiers to get the right advice before allowing a building to be occupied.
 - The Board will now be able to re-assess the competence of a certifier at any time and could, if necessary, change or impose new conditions on the certifiers accreditation, or suspend or cancel their accreditation.
 - The Board and the Administrative Decisions Tribunal will also now be required to consider previous disciplinary decisions against a certifier when deciding on penalties for breaches, ensuring penalties appropriately reflect any history of unsatisfactory conduct.
 - Certifiers will be required to enter into written contracts with applicants for certification services. These will provide greater protection for the building industry by clarifying who will undertake the certification work, their responsibilities, when they will undertake the work and when fees and charges must be paid.
 - Councils will be able to better recover costs of enforcing development consents through widening of compliance costs notices.
 - The Board will be able to give a direction to a former PCA (and others including their employers) to provide copies of relevant documents in their possession to the new PCA.
-
- [Find out more](#)

Building Professionals Amendment (Accreditation) Regulation 2012

An amendment has been made to the BP Regulation to give certifiers accredited in categories of accreditation A1, A2 and A3 authority to issue complying development certificates under the Demolition Code of *State*

*Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP). Corresponding changes have also been made to the Accreditation Scheme made under the *Building Professionals Act 2005*.*

The changes commence today.

An amending regulation was placed on exhibition and 19 submissions were received. These were broadly supportive of the proposed amending regulation.

- [Read more](#)

Have your say

Building Professionals Amendment (Exemptions) Regulation 2012

An Amendment Regulation has been released for exhibition that would amend the Building Professionals Regulation 2007 to:

- **Limit certain existing exemptions to the conflict of interest provisions that apply to council accredited certifiers relating to a development that has a capital investment value not exceeding \$5 million:** This means that for a development with a capital investment value over \$5 million, a council accredited certifier will have a conflict of interest if they issue a Part 4A or complying development certificate on behalf of the council to a council employee or the council itself.
- **Introduce an exemption for council accredited certifiers if they are related to a person involved in the design or construction of an aspect of development.** Council accredited certifiers will be able to issue a Part 4A or complying development certificate if related to a person involved in the design or construction of an aspect of development, if the certificate is issued on behalf of the council, to the council or to a council employee and the capital investment value of the development does not exceed \$5 million.
- Introduce savings and transitional provisions in relation to these amendments.

[View the draft Regulation](#)

The Amendment Regulation will be on exhibition until 22 December 2012.

To have your say:
email: policy@bpb.nsw.gov.au

write to:
The Director
Building Professionals Board
PO Box 3720
Parramatta NSW 2124

New reports

Annual Report 2011-12

The Department of Planning & Infrastructure has released its Annual Report for 2011-12. This incorporates the Annual Report of the Building Professionals Board.

- [View the Annual Report](#)

State of the Sector report

State of the Sector report The inaugural *State of the NSW Public Sector Report* was recently released. It is the first major statement by the Public Service Commissioner on approaches to address the challenges facing the NSW public sector and his assessment of its performance.

- [View the State of the Sector report](#)
-

Event reminder: AAC Seminar

The AAC is hosting a fire seminar to explain what actually happens when Fire and Rescue NSW (FRNSW) firefighters turn up at a fire incident in terms of operational issues, search and rescue, use of hydrants and other issues.

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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



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New experience guidelines

The Board has produced guidelines that describe the experience applicants are expected to demonstrate to reach Category A1 accreditation.

A recent Board decision means the guidelines will be used as a reference document as an application is being assessed so it is worth using the guidelines as you are going through the application process.

- View the [Guidelines](#)

Reminder: have you registered your interest yet?

Transitional arrangements for council accredited certifiers after 1 March 2013

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.

Amendments to the Boards Accreditation Scheme will 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. The amendments permit transitional accreditation under the current scheme after 1 March 2013 for those council accredited certifiers who enrol, before 1 March 2013, in a qualification

recognised by the Board.

To be eligible council accredited certifiers need to:

- be currently 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.

Practice advice

Asbestos policy guidelines

The Division of Local Government has released a Circular and Guide for Councils to assist the development of their asbestos policy.

- [View the Circular](#)
- [View the Guide](#)

Operation Jarek

ICACs recent report on the [Operation Jarek](#) investigation into allegations of acceptance of gifts and benefits and procurement activities in councils and agencies has been released.

The report made a number of recommendations of relevance to public sector gifts and benefits policies and staff training.

Swimming Pools Amendment Act 2012

The Swimming Pools Amendment Act 2012 commenced on 29 October 2012 and makes a number of amendments to the Swimming Pools Act 1992.

Certifiers accredited under the BP Act may conduct swimming pool inspections initiated by the pool owner.

- [Find out more](#)

Swimming pools safety campaign

With summer upon us, the Division of Local Government has released details of the 2012 Swimming Pools safety campaign

- [View the circular](#)

Electronic housing code

An additional 13 regional and metropolitan councils will implement the Electronic Housing Code over the next six months, giving more families and builders access to fast-tracked online housing approvals. The councils joining the system include five Sydney councils (Ku-ring-gai, Pittwater, Randwick, Ryde and Waverley) and eight regional councils (Armidale, Ballina, Lismore, Maitland, Mid-Western, Wagga Wagga, Wollondilly and Wollongong).

- [Find out more](#)
-

Have your say

Exhibition of draft planning circular: Safety awnings over public lands

The NSW Government is seeking feedback on a draft planning circular to improve the safety of awnings over public lands.

The purpose of the draft circular is to advise councils of the steps that should be taken by both councils and building owners to identify potential safety issues related to awnings over public lands (e.g. footpaths) and to seek councils cooperation to ensure appropriate action is taken to avoid future risks of collapse.

The Department of Planning & Infrastructure is exhibiting the draft planning circular, [Safety of awnings over public lands](#) until Wednesday 19 December.

Website updates

The Accreditation Scheme and Applying for Accreditation: A Guide have been updated to include the recent amendment to Schedule 1 of the BP Regulation to give A1, A2 and A3 Category certifiers the authority to issue complying development certificates for the demolition or removal of a building where building work is not involved.

- [View the updated Accreditation Scheme](#)
 - [View the updated Guide](#)
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President's message

2012 has probably been one of the most interesting and challenging years for the Building Professionals Board.

We started the year on the road, we heard what so many of you had to say about the current building certification system, we met with many stakeholder organisations, and from all that input we developed a Better Buildings Model. We've already seen some of those ideas translated into legislation, and hope to see more next year.



On top of that, we hit a milestone of accrediting 500 private certifiers, we conducted 120 advisory reviews to assist councils and certifiers, we obtained full funding for people to undertake the Diploma in Building Surveying at OTEN NSW, we have amended the Accreditation Scheme to include a number of new courses and qualifications, and we've instigated a new guideline for dealing with complaints and investigations (see this issue).

The Board staff moved offices during the year and you can expect to see a number of new faces in the office as our activities increase.

A highlight of the year has been the input so many of you have provided, whether by attending our workshops, filling in online surveys or by making contact with us to clarify issues as you work within the States building and certification system every day. We encourage you to make contact, and we look forward to more interaction and engagement with the industry throughout 2013.

I particularly also thank the external members of the Boards committees and the Boards Technical Reference Group for their assistance and advice

throughout the year.

Best wishes for the holiday season and see you next year!

New Disciplinary Penalty Guidelines

The Board has reviewed the application of its disciplinary powers under the Building Professionals Act, to ensure consistency in the application of penalties for findings of "unsatisfactory professional conduct" or "professional misconduct" under the Act.

The Boards disciplinary powers were increased in 2008 to align them with the powers of the NSW Administrative Decisions Tribunal, including the authority to issue fines up to \$110,000 and to suspend or cancel a certifier's accreditation.

In keeping with the significance of this authority, and to help ensure consistency in disciplinary decision making, the Board has adopted Disciplinary Guidelines that, from 2013, will be taken into account by the Board's Disciplinary Committee when determining appropriate penalties.

The Guidelines categorise the seriousness of the conduct, the range of fines that may apply to each category, and the effect of a prior record of disciplinary decisions reflecting the Boards view that multiple complaints may demonstrate a pattern of poor performance that warrants a more serious penalty.

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.

- [View the Guidelines](#)

Council accredited certifiers

New applications (upgrades and removing conditions) for accreditation from 1 March 2013

From 1 March 2013, applicants for council accreditation, including applications from council accredited certifiers applying to upgrade their category or have conditions removed, will need to satisfy:

- the core performance criteria

- the qualification requirement
- the specialty performance criteria
- the experience requirement

that currently apply to applicants seeking to become private accredited certifiers in categories A1, A2 and A3.

To satisfy the qualification requirement and the specialty performance criteria applicants must have a qualification listed in Schedule 3 Part 2 of the Boards [Accreditation Scheme](#) for the relevant category.

To satisfy the experience requirement applicants will be required to provide an [annotated resume](#), two [Referee's Statements](#), a list of projects and six experience reports.

To satisfy the core performance criteria requirement, applicants will be required to undertake either the University of Technology Sydney Certification Short Course or the Boards accreditation exam.

However, applicants who have registered their interest for the transitional arrangements process for council accredited certifiers and are approved by the Board are exempted from the core performance criteria requirement and will be assessed under the current council accreditation requirements of the Accreditation Scheme.

To register your interest for the transitional arrangements, you will need to complete the [nomination form](#) and send it to bpb@bpb.nsw.gov.au before 1 March 2013.

To take advantage of the transitional arrangements council accredited certifiers need to:

- currently be enrolled or will be enrolled 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 full time or part time basis.

Practice advice and updates

Update on plumbing reforms

The *Plumbing and Drainage Act 2011* and adoption by NSW of the Plumbing Code of Australia mean NSW Fair Trading is the single regulator for plumbing and drainage in NSW, replacing more than 100 individual agency arrangements.

The next stage of the reform commences from 1 January 2013 when the new Act and arrangements commence state-wide. Fair Trading becomes the plumbing regulator across NSW and, as planned, will delegate the role back to local councils outside Sydney, the Blue Mountains, Illawarra and the Hunter.

For further information on plumbing reforms, go to the [Fair Trading website](#)

Update on the review of the *Home Building Act 1989*

The consultation response to the *Home Building Act 1989* Issues Paper means it will be possible to proceed with the proposed reforms on the vast majority of issues contained in the Issues Paper. More work is required on several regulatory areas where the matters under consideration and the suggestions for reform are complex. It is anticipated that a further round of public consultation will take place in the first half of 2013.

- [Find out more](#)

Amendments to Parramatta City Council's contributions plan

Parramatta City Council has adopted the Parramatta City Council Section 94A Development Contributions Plan (Amendment No. 2). This applies to all land within the Parramatta LGA, except the Parramatta CBD.

As part of the amendment, changes were made to the threshold for dwelling houses and ancillary structures. The new rates apply to all new applications for development consent or complying development certificates made after the commencement date, and any applications made but not finally determined before the commencement date (28 November 2012).

- [Find out more](#)

FRNSW Alternative Solutions Process

Fire & Rescue NSW is changing to a one-queue approach rather than working in dedicated work-type teams to deal with the assessment of alternative solutions. The queue will primarily be prioritised based on risk-to-life, legislative requirements and receipt date of request.

In addition, amendments have been made to the Fire Engineering Brief (FEB) and Initial Fire Safety Report (IFSR) Processes for Alternative Solutions, and concept meetings will only be held for new buildings that are unique, iconic and significant.

Further information and relevant new forms can be found [here](#).

Safety issues with suspended ceilings

The Board has recently been made aware about incidents and potential safety issues associated with the structural integrity of installed suspended ceilings.

Suspended ceilings are used extensively in commercial and public buildings and in some large residential Class 1a buildings. Typically proprietary-type systems, they consist of metal rods or wires fixed to the underside of roofs or floors connecting to furring channels supporting screw-fixed plasterboard. Other systems rely on a metal grid system with insert or drop-in ceiling panels. In addition to their own mass, each system can carry significant loads such as wiring, light fittings and air-conditioning outlets.

The Board considers it is appropriate for a certifier to seek confirmation that the installation of a suspended ceiling and its support are structurally adequate, prior to issuing an occupation certificate. Evidence of its adequacy may be in the form of a certificate from a professional structural engineer.

Inspections of swimming pools under new amendments

The Board recently received an inquiry as to who can undertake inspections of swimming pool barriers under changes to the *Swimming Pools Act 1992*.

As mentioned in the last BPBulletin, the *Swimming Pools Amendment Act 2012* (the Amendment Act) received assent on 29 October 2012. When it commences, the Amendment Act will, among other things, place requirements on councils, swimming pool owners and accredited certifiers in relation to the inspection of swimming pool barriers.

Under the changes, the Amendment Act will, among other things:

- require the council to inspect swimming pools in its local area in accordance with a program of inspections of swimming pools it must develop
- enable the property owner to request the council or an accredited certifier to inspect the swimming pool on the property at any time
- require the council to carry out an inspection within a reasonable time if the owner makes the request in writing and states the inspection is required to enable the sale or lease of the premises
- require the council to enter onto the Register of Swimming Pools (which the Chief Executive of the Division of Local Government within the Department of Premier and Cabinet is required to keep), information required to be supplied in relation to swimming pools in its area.

The inspections are to be undertaken to ensure compliance with requirements that relate to child-resistant barriers (Part 2 of the *Swimming Pools Act 1992*).

The council or an accredited certifier can issue a certificate of compliance under the *Swimming Pools Act 1992* if the swimming pool has been registered on the Register of Swimming Pools and the swimming pool barrier complies with Part 2 of the *Swimming Pools Act*. The council or accredited certifier must ensure details of the swimming pool are entered onto the Register following the issue of a certificate of compliance.

Following an inspection, if a private accredited certifier is not satisfied the swimming pool is registered or that the barrier complies with the Act, the certifier must provide a written notice to the owner that includes the steps to be taken to meet those requirements. They must forward a copy of the notice to the council within the period set out in section 22E(4) of the Act.

Specifically who can carry out inspections and issue certificates of compliance

The amendments do not require councils to have a certifier accredited in a particular category of accreditation under the BP Act to carry out inspections of swimming pool barriers and issue a certificate of compliance. Councils just need to ensure the relevant officer is competent and has the necessary delegation to undertake the work.

Private accredited certifiers are given authority to carry out the above inspections and issue certificates of compliance under the *Swimming Pools Act*. The Amendment Act defines accredited certifier as:

accredited certifier means an accredited certifier within the meaning of the [Building Professionals Act 2005](#) holding:

- (a) Category A1, Category A2 or Category A3 accreditation under that Act, or
- (b) if the regulations prescribe alternative qualifications, those alternative qualifications.

The reference to regulations in the definition means the *Swimming Pools Regulation 2008*.

- [Find out more](#)
- [View the Amendment Regulation](#)

Call for expressions of interest

Electronic housing code

The Department of Planning & Infrastructure is currently looking for additional private certifiers to join the Electronic Housing Code (EHC) project. If you're interested, please submit an [Expression of Interest](#). A briefing session will be held on 18 January 2013 for any interested certifiers at the Department's Bridge Street office. Attendance is not mandatory, though places are limited, so please RSVP to attend. A copy of the presentations made at that session will be circulated afterwards.

[Click here](#) to RSVP

The Expression of Interest process will close on 1 February 2013. An independent selection panel will select the additional certifiers and a decision will be announced in March 2013.

Summary of Advisory Reviews

The Board has released a summary of the years Advisory Reviews.

- [View the Summary here](#)



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