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Premises Standards update

Discussion Paper

The Board developed a discussion paper late in 2010 regarding options to implement the Commonwealths Disability (Access to Premises - Buildings) Standards (the Premises Standards) from 1 May 2011. The Premises Standards will apply to all new buildings, new building work and to 'affected parts' of existing buildings.

The Premises Standards will be incorporated into the Building Code of Australia (BCA), also from 1 May 2011.

The discussion paper sets out options for dealing with claims of unjustifiable hardship under the Premises Standards. Feedback on the discussion paper is welcome until 28 February 2011.

- View the [discussion paper](#)
- View an [information sheet](#).

Training

As part of its regional seminars, the Australian Institute of Building Surveyors (AIBS) will provide an overview of the Standards, an update of their current status and a practical perspective of how they will be applied.

Sessions will be held from February to June in Lismore, Port Macquarie, Kiama, Tamworth, Albury and Canberra.

- [Find out more](#)

Association of Accredited Certifiers (AAC) workshops on the Premises Standards are already full. However, the AAC will hold an additional session if demand requires it. Please contact [Jill Brookfield](#) to express your interest in attending.

Upcoming Australian Building Codes Board training on the National Construction Code (see below) will cover the Premises Standards, but not to the level of detail as seminars held in 2010. Webcasts of these seminars are now available.

- [View the webcasts](#)

Update on Commonwealth implementation

Graeme Innes AM, the Disability Discrimination Commissioner and Race Discrimination Commissioner, has written to stakeholders with an update on the implementation of the Disability (Access to Premises Buildings) Standards.

- [View the update](#)

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BP Amendment Regulation

Changes to authorities conferred for Categories A3 and A4

The Building Professionals Amendment (Categories of Accreditation) Regulation 2011 (the Amendment Regulation) commenced on 18 February 2011. It makes changes to the authorities conferred for Categories A3 and A4.

Certifiers accredited as Category A3 on or after 18 February 2011 are now authorised to issue the following certificates for Class 1 and Class 10 buildings that comply with the BCAs performance requirements by meeting the BCAs deemed-to-satisfy provisions, rather than by any alternative solutions:

- Complying development certificates for building work or change of use.
- Construction certificates and compliance certificates for building work.
- Occupation certificates.

Certifiers accredited after the Amending Regulation commenced will no longer be authorised to certify any Class 2-9 buildings.

Similarly, anyone granted Category A4 accreditation on or after 18 February 2011 can carry out inspections only in relation to Class 1 and Class 10 buildings, and not in relation to any Class 2-9 buildings.

Corresponding changes have been made to the [Accreditation Scheme](#) made under the *Building Professionals Act 2005*.

Also, under the Amendment Regulation, Category A3 certifiers accredited before 18 February 2011 can continue to carry out certification work for Class 2-9 buildings with a maximum rise of two storeys and a maximum floor area of 500 square metres that achieve compliance with the performance requirements of the BCA by complying with the deemed-to-satisfy provisions. Likewise, A4 certifiers accredited before 18 February 2011 can continue to carry out inspections on Class 2 - 9 buildings with a maximum rise of two storeys and a maximum floor area of 500 square metres under the BCA.

- View the [Amending Regulation](#)
- View the [Accreditation Scheme](#)

Existing accredited certifiers continuing to undertake inspections

The Amendment Regulation has permanently extended the authority for existing accredited certifiers (anyone who has who held continuous accreditation since prior to 1 March 2007 when the Board began operations) to be able to carry out inspections required under section 109(3)(d) of the *Environmental Planning and Assessment Act 1979*. This includes critical stage inspections and other inspections required by the Principal Certifying Authority.

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Reminders and updates

BP Act Review

A review of the Building Professionals Act 2005 commenced in late 2010. Submissions are welcome until 28 February 2011. The aim of the review is to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

- [Find out more](#)

Conflict of interest exemptions

The Board has commenced consultation with councils and council accredited certifiers in relation to options for applying the conflict of interest provisions in the Building Professionals Act and regulation to council accredited certifiers. The existing exemption, which allows council certifiers to certify council development proposals, will be reviewed in light of the submissions received.

Submissions are welcome until 28 February 2011.

Inspection guidelines

Thank you to those who made a submission to the Board on the draft guides to undertaking inspections. Work is continuing and these documents are being revised in light of submissions received.

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Practice advice

National Construction Code - information seminars

The National Construction Code (NCC) will be adopted from 1 May 2011. The Australian Building Codes Boards 2011 National Seminar series aim to raise awareness of the NCC and other code amendments scheduled for 2011.

Morning sessions will focus on the Premises Standards, covering provisions as they have been incorporated into BCA 2011. With the Plumbing Code of Australia (PCA) to make its debut as Volume Three of the NCC in 2011, afternoon seminars will focus on the new 2011 PCA and its broader implications.

Information sessions will be held across Australia in March, including two sessions in Sydney (10 and 11 March) and one in Canberra (8 March).

To register online, visit www.abcb.gov.au

BCA energy efficiency provisions - residential glazing

The Australian Building Codes Board has released a new information sheet on the BCA energy efficiency provisions for residential glazing.

- View the [information sheet](#)

Modifying development consents under section 96

Is a modified construction certificate required where there is no change to the relevant architectural plans?

The EP&A Regulation 2000 does not make express provision for the circumstances in which an application should be made under clause 148 to modify the development the subject of a construction certificate.

The Board believes that, where a development consent has been modified under section 96 of the EP&A Act, an application to modify the development under clause 148 would not be automatically required; one is only required if the plans and specifications have changed significantly.

For example, if the modification relates to the removal of a consent condition or a change in a consent condition, but there is no change to the architectural plans, the need for an application under clause 148 is unlikely. The occupation certificate should, however, clearly reference the relevant development consent (as modified) and the relevant construction certificate.

Charges for services: statutory fire safety

In 2008 the Fire Brigades Regulation (FB Regulation) was updated with the introduction of Clause 54, which details charges for services performed in connection with statutory fire safety.

As a result, Fire and Rescue NSW (FRNSW - formerly the NSW Fire Brigades) have commenced charging for:

- the review of fire engineering reports and furnishing of initial fire safety reports
- inspections and the furnishing of final fire safety reports
- fire safety meetings in connection with a development or proposed development.

On 1 March 2011, FRNSW will commence charging on a discretionary basis when providing advisory, assessment or consultancy services in respect of:

- major infrastructure development (as defined in Part 3A of the EP&A Act)
- crown building work (as defined in section 109R of the EP&A Act)
- other development (including designated development, integrated development and other development not otherwise listed above).

Charges of \$2,600 (plus GST) are prescribed for each day (or part of a day) taken to provide these services. A minimum of \$1300 may be charged for up to half a day.

All submissions for advisory, assessment or consultancy services should be accompanied by the appropriate FRNSW [application form](#).

Changes relating to voluntary planning agreements and Part 4A certificates

Some voluntary planning agreements include provision for certain actions to be undertaken before construction, occupation or subdivision certificates can be issued. Provisions in the *Statute Law (Miscellaneous Provisions) Act 2009* (the Miscellaneous Provisions Act) to be proclaimed on 25 February 2011 will prevent certifying authorities from issuing these certificates if the actions have not been undertaken.

In addition, various provisions of the Environmental Planning and Assessment Amendment (Part 4A Certificate and DCPs) Regulation 2011 will also commence this Friday to introduce similar requirements for construction certificates, as well as new provisions that:

- require the explanatory notes for planning agreements to indicate whether the agreement includes a provision specifying any actions that must be undertaken
 - enable certifying authorities to require development applicants to provide information relating to voluntary planning agreements that is relevant to the application being properly considered
 - make it clear that a planning authority that is a party to a voluntary planning agreement may, for the purposes of any such requirement to supply information, certify that specified requirements of the agreement have been met.
-
- View the [Department of Planning circular](#)
 - View the [Miscellaneous Provisions Act and the Amendment Regulation](#)

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Council accredited certifiers

Qualifications requirements for private accreditation

Many qualifications recognised by the Board for council accredited certifiers are not recognised by the Board for private accreditation. Any council accredited certifiers considering enrolling in the UTS Certification Short Course - to allow them to apply for private accreditation in categories A1, A2 and A3 - should first check they hold qualifications that will make them eligible for private accreditation.

The list of relevant qualifications required for private accreditation in categories A1, A2 and A3 are listed under Schedule 3 Part 2 of the Accreditation Scheme.

If the applicant does not hold the relevant qualifications, they need to provide evidence from the provider of one of the specified qualifications that their existing qualification is equivalent to the qualification listed under the Scheme.

Contact the Board on 02 9895 5950 for further advice.

Renewal of council accreditation

Council accredited certifiers must lodge a council renewal application form and pay the \$250 fee before the expiry of their current certificate of accreditation.

A certifiers accreditation will only remain in force between the expiry date and when the Board determines the renewal application if the form is lodged and fee paid prior to the expiry date.

Certifiers who fail to lodge their renewal prior to the expiry date will cease to be accredited on the expiry date and therefore will not be authorised to carry out any certification work on behalf of a council and will need to apply for accreditation as a new applicant.

- [View the renewal application form](#)

Accreditation details on Part 4A certificates

Council accredited certifiers have contacted the Board to check if there is any difference in the certifiers liability when they issue a certificate with or without their accreditation number.

The Board believes the liability for the certificate is no different whether or not the accreditation number is provided. However, to remove ambiguity, the draft EP&A Regulation 2010 proposes to require all council accredited certifiers to provide their name and accreditation number when issuing construction certificates, compliance certificates and occupation certificates.

Clarification of accreditation conditions

The Board has received a request to clarify a condition placed on Category A1 council accredited certifiers.

The condition that the certifier must not carry out certification work in relation to Class 2-9 buildings including existing buildings that incorporate alternative solutions relating to fire safety prohibits those with the condition attached to their accreditation from carrying out certification work in relation to:

- Class 2-9 buildings that incorporate alternative solutions relating to fire safety
- existing Class 2-9 buildings undergoing alterations or additions where the existing building incorporates an alternative solution relating to fire safety (even though the alterations and additions comply with the deemed to satisfy provisions of the BCA)
- existing Class 2-9 buildings undergoing alterations or additions where the existing building complies with the deemed to satisfy provisions and the alterations and additions incorporate an alternative solution in relation to fire safety.

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CPD activities for 2011

The Board is reviewing its CPD program and does not intend requiring accredited certifiers to successfully complete any Approved CPD activities. Private accredited certifiers will need to satisfy the requirements of a CPD program offered by a provider listed in table 2 of schedule 5 of the Accreditation Scheme. Council accredited certifiers will have to undertake a minimum of four hours of CPD relevant to building surveying in their first year of accreditation.

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Accreditation exam

The accreditation exam will be held at the Boards offices in Parramatta this Thursday 24 February 2011. 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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New standards for swimming pools and spas

Australian Standard AS 1926 Part 3 - 2010 Swimming Pool Safety - Water Recirculation Systems, published on 1 September 2010, changes requirements for skimmer boxes and other permanent water outlets for swimming and spa pools to reduce hazards associated with water recirculation systems.

These new requirements are expected to become mandatory on 1 May 2011 when amendments to the Building Code of Australia commence.

Work carried out to a swimming pool or spa pool under a construction certificate or a complying development certificate that is lodged on or after 1 May 2011 will need to comply with AS 1926.3-2010.

The existing 2003 version of AS 1926 Part 3 will continue to apply only to those developments that have an application for a construction certificate or a complying development certificate lodged before 1 May 2011.

Certifying authorities should make themselves aware of the new requirements to ensure all construction and complying development certificates for swimming pools and spas issued after 1 May 2011 comply with AS 1926 Part 3 2010.

In addition, the Board is seeking to introduce a new requirement into the EP&A Regulation that will mean the principal certifying authority must, for any development involving a swimming pool or spa, obtain certification from the principal contractor (including the owner builder) that the pool or spa water reticulation system has been built in accordance with the requirements of the BCA and relevant Australian Standards. Certification must also confirm that all components and systems have been tested and comply with these standards prior to the issue of an occupation certificate. Further information on this

change will be provided when available.

For a copy of AS 1926.3-2010 visit <http://www.saiglobal.com/>

Reminders and updates

Insurance certificates of currency at renewal

Certifiers must provide a correct and up to date certificate of currency for insurance when they are renewing their accreditation. The insurance needs to satisfy section 63 of the BP Act and Part 4 of the BP Regulation.

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.

Certifiers are still liable to legal action for up to 10 years after undertaking certification duties. Therefore, certifiers nearing retirement, or who have already retired, are recommended to obtain runoff insurance or should continue to obtain insurance annually for at least 10 years.

Photographic evidence to confirm critical stages of inspection

The Board has become aware that some builders and contractors are offering photographs as an alternative to required critical stage inspections.

Inspections during construction help ensure that what is built remains consistent with what has been approved, and that the building will meet acceptable building standards. Photographs, therefore, are not acceptable and should never be used as a replacement for undertaking a critical stage inspection.

If a critical stage inspection is missed, the PCA must be of the opinion that the circumstances of the missed inspection were unavoidable and that the work to be inspected is satisfactory before an occupation certificate can be issued.

Issues 7 and 10 of the BP Bulletin on the Boards [archive page](#) recorded some of the reasons given for missed inspections, many of which arise from poor communication - not necessarily an 'unavoidable circumstance'.

The PCA must also make a record of the missed inspection so as to be able to issue the occupation certificate at the end of the work.

Practice advice

Swimming pools amendment regulation

The Department of Premier and Cabinet (local government) has released a circular to advise councils that the Swimming Pools Amendment Regulation 2011 (the Amendment Regulation) will commence on 1 May 2011.

- View the [circular](#)

BASIX Completion Receipt

A BASIX Completion Receipt is a one page document that confirms a Principal Certifying Authority (either a council or a private accredited certifier) has entered relevant information into the BASIX website after carrying out a final inspection for a BASIX affected building.

The BASIX Completion Receipt is a requirement under the EP&A Regulation 2000. From 25 February 2011 it is required to be issued before a final occupation certificate is issued for a BASIX affected building.

A BASIX Completion Receipt ensures the Department of Planning knows when a BASIX affected building has been constructed and occupied. This notification is an important aspect of the BASIX Monitoring and Evaluation Program and helps the Department, in partnership with energy and water utilities, to determine the extent to which BASIX is delivering on forecasted energy and water savings.

- For more information, [download the BASIX Completion Receipt Information Pack](#).

Balcony and window falls

Each year, at least 12 children are admitted to The Children's Hospital at Westmead as a result of sustaining injuries from a balcony or window fall. Many of these falls occur in the child's own home. Children aged one to four years are most at risk, with presentation to the Hospital peaking during warmer months. While the majority of children survive the fall, they are left with serious long lasting health consequences.

Westmead has undertaken a report into balcony and window falls. As part of the report, the Hospital recommends working with industry to encourage and promote industry-based safety enhancements in residential buildings particularly in regard to the design of windows and balustrades.

- [View the report](#) (see strategic recommendations on pages 2 - 5 of the report)

Section 94E direction

The Department of Planning has issued circular PS 11-012 to provide councils, accredited certifiers and the community with information regarding the revocation and issuing of a new Section 94E Direction in relation to the capping of development contributions.

- [View the circular](#)

City of Ryde - section 94 development contributions plan

The City of Ryde has changed its Section 94 Development Contributions Plan, effective 16 March 2011. The amended Plan includes complying development and residential development types introduced by the Affordable Rental Housing State Environmental Planning Policy 2009, which includes secondary dwellings. Certifiers must consider the Plan, which can be accessed on Council's [website](#) when undertaking work in the Ryde LGA.

AIBS courses

The AIBS and the Institute of Access Training Australia are offering a two day course for building surveyors wishing to upgrade their skills currently recognised by the Boards Accreditation Scheme under Part D3 and Part F2 of the BCA and also AS 1428.1.

The Certificate in Access Appraisal-Buildings (15 CPD points) will be held in Canberra on 4 and 5 April 2011, and in Sydney on 27 and 28 June 2011.

[View the flyer/registration](#)

Bond University breakfast briefing

Bond University's Institute of Sustainable Development & Architecture, in conjunction with the Australian Institute of Building Surveyors (AIBS), is holding its latest breakfast seminar in Parramatta on 8 April, entitled Certainty For Certifiers Understanding Qualifications For Building Surveyors

The breakfast will cover:

- what is needed to be accredited as building surveyors
- the various levels of accreditation people may qualify for
- the education programs available to help improve levels of accreditation.

[Find out more](#)

What's happening at the Board

Summary of selected complaints and investigations

The Board released its latest summary of selected complaints and investigations, featuring four case studies to assist and educate those involved in the certification process.

- View the [Summary](#).

Local development monitoring

The Board has released an information sheet focusing on the main findings from the Department of Plannings *NSW Local Development Performance Monitoring: 2009-10* focusing on data relating to the certification process.

- View the [information sheet](#)
- View [NSW Local Development Performance Monitoring: 2009-10](#)

Disciplinary register

The Board has undertaken a comprehensive update of its Disciplinary Register which can be accessed through the last link of this [webpage](#).

Users can access the summary of the disciplinary action by clicking on the decision line in the disciplinary register pdf.

As part of the review, the Summary of the Disciplinary Action replaces the former Statement of Decision.

Website updates

- *Updated*: [Accreditation Scheme](#)
- *Updated*: [Housing Code checklist and guidelines](#)

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Important Note

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New minister and departmental changes

The Hon. Brad Hazzard MP has been appointed Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW.

The government has also announced that with the reduction in departmental clusters from 13 to nine, the Department of Planning will be renamed the Department of Planning and Infrastructure as a standalone Department and within the Premier and Cabinet cluster.

The Building Professionals Board will continue its reporting line to the Minister for Planning and Infrastructure.

The State Property Authority, Land Titling and Registration, Surveyor General and Valuer General will all transfer to the Finance and Services cluster, while Crown Lands, Soil Conservation and Land and Property Information (Spatial Data) will transfer to the Department of Primary Industry, Trade and Investment, Regional Infrastructure and Services cluster.

Other changes include:

- the closure of the Land and Property Management of Authority and distribution of its functions to other departmental clusters (including the transfer of the Office of Strategic Lands to the Department of Planning and Infrastructure)
- the transfer of the Heritage Office to the Office of Environment and Heritage, Department of Premier and Cabinet.

Administrative orders can be found at www.legislation.nsw.gov.au by going to the 'Notification' section.

Reminders and updates

Premises Standards update

Information is being prepared in the lead up to the Commonwealths new Premises Standards being incorporated into the Building Code of Australia (BCA) on 1 May 2011.

While guide and applications forms are currently being devised, you can call through with any queries relating to the application of the Standards on **1300 001 619**.

Applying for accreditation

The Board has updated Applying for Accreditation: a guide and developed an information sheet to assist certifiers who will be undertaking the Accreditation Exam.

- [View the new guide](#)
- [View the information sheet](#)

Breakfast seminar postponed

Bond Universitys Institute of Sustainable Development & Architecture and the AIBS breakfast seminar Certainty for Certifiers Understanding Qualifications For Building Surveyors has been cancelled and is now expected to be held in July. The Board will advise on final dates closer to the time.

Practice advice

Voluntary Planning Agreements

New obligations mean that certifying authorities cannot issue construction certificates, occupation certificates or subdivision certificates unless they are satisfied that the conditions stipulated under a voluntary planning agreement as required to be met before these certificates are issued are complied with.

- [View the information sheet](#)

Codes SEPP and strata subdivision

The Board has received correspondence from a certifier seeking advice following the amendment to *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008* (the Codes SEPP) to include Part 6 - Subdivisions Code and how this amendment relates when considering exempt and complying development proposals under a Council Code.

The query comes in light of the fact that the transition period for the Codes SEPP will end on 1 September 2011. This means that, from that date, the Codes SEPP will take precedence over local planning codes.

This could also mean that, for example, if a council's LEP or DCP states that strata subdivision is exempt from development consent in certain areas - but, under the Codes SEPP from 1 September 2011, the strata subdivision falls outside the Codes SEPP - it will require a development consent.

To avoid exempt or complying development going back to being subject to development consent, the Department of Planning and Infrastructure will be working to remove gaps between the Codes SEPP and local planning controls, particularly where successful and commendable existing council controls are not covered by the Codes SEPP. This will ensure that home owners and businesses are not disadvantaged by the full implementation of the Codes SEPP.

- [Find out more](#)

Bush fire prone land

As of February 2011, low risk bush fire prone land will no longer be excluded from the Codes SEPP. The Department of Planning and Infrastructure and the Rural Fire Service (RFS) have worked together to introduce a new system which allows complying development on some bush fire prone land, but importantly maintains a rigorous assessment regime for managing bush fire risk.

In order to support these changes, the RFS and the Department have developed a series of requirements for consultants in order to be recognised as suitably qualified for the purposes of the new provisions in the Codes SEPP and section 79BA of the EP&A Act.

- [Read the Fast Fact](#)

What's happening at the Board

Student numbers in NSW building surveying courses 2011

The Board has looked into student numbers across NSW for 2011, with results in the table below. While these numbers are encouraging for building surveying, the Board will continue its work with educational institutions to ensure younger building surveyors continue to come into the profession.

Institution	Course	Student numbers
NSW TAFE	<ul style="list-style-type: none">Diploma in building surveying (18736 - new course)Diploma in building surveying (4853 - old course)	186 (new course); 81 (continuing in old course)
Bond University	<ul style="list-style-type: none">Graduate Certificate in building surveyingGraduate Diploma in building surveyingMaster of building surveying	9 (4 in Sydney; 5 in Gold Coast)
University of Western Sydney	<ul style="list-style-type: none">Graduate Diploma in building surveying	Approx. 30 with around 30 continuing students
University of Newcastle	<ul style="list-style-type: none">Bachelor of Construction Management (Building)	226

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Premises Standards commencement

The Disability (Access to Premises Buildings) Standards (the Premises Standards) and accompanying changes to the Building Code of Australia (BCA) will start on 1 May 2011.

The Board is seeking amendments to the EP&A Regulation to assist in the implementation of the Premises Standards in NSW. However, these amendments are unlikely to be made before 1 May 2011.

It is therefore important that all those who will be affected by the Premises Standards know how to deal with the Premises Standards under NSW legislation from 1 May 2011.

For Crown building work

- Development commenced before 1 May 2011 will not need to comply with the Premises Standards.
- Development commenced on or after 1 May 2011 will need to comply with the Premises Standards even if it has been certified under section 109R of the EP&A Act before 1 May 2011, unless an exception or concession under the Premises Standards applies.
- Certification issued in relation to section 109R of the EP&A Act will need to comply with the access provisions in the BCA.

For all other development

- Development for which an application for a construction certificate or complying development certificate is lodged before 1 May 2011 will not need to comply with the Premises Standards.

- Development for which an application for a construction certificate or complying development certificate is lodged on or after 1 May 2011 will need to comply with the Premises Standards, unless an exception or concession under the Premises Standards applies.
- Compliance with the new access provisions in the BCA from 1 May 2011 will be required (it is a statutory condition of development consent and of complying development certificates that work be carried out in accordance with the BCA, as per clauses 98 and 136A of the EP&A Regulation).

For unjustifiable hardship exceptions

- The Board is establishing a committee (the Access Panel) under the BP Act to make recommendations on applications for exemptions from compliance with a requirement/s of the Premises Standards on the basis of unjustifiable hardship. The Access Panel is expected to be in operation by mid to late May 2011.
- If assistance is required to deal with an application for an exemption from complying with the requirements of the Premises Standards on the basis of unjustifiable hardship prior to the Access Panel being established, visit the [Premises Standards page](#) of the Boards website for the most up to date advice.

The Access Panel

Anyone will be able to make an application to the Access Panel; however, applications should only be made as a last resort. Applicants will need to show the Access Panel reasons why it would impose unjustifiable hardship upon them to comply with the deemed-to-satisfy provisions or by formulating an alternative solution in order to comply with the Access Code in the Premises Standards. Compliance with the Premises Standards to the maximum extent possible is required.

The Board is developing a guide to the application process and relevant application forms. These will be provided on the [Premises Standards page](#) of the Boards website.

The Access Panel will meet regularly and will include members with expertise in disability access, building surveying, structural engineering, heritage conservation and quantity surveying.

Correction

A correction has been made to the information sheet Applying the Premises

Standards (under the heading of Timing of the commencement of work). The updated information sheet is [here](#).

New guides for consumers

The Board has updated two guides for consumers to assist them through the building approvals process and working with Principal Certifying Authorities (PCAs).

Copies of these guides will be distributed to councils and councils are encouraged to use the following links on their own webpages.

- [View the guide to the building approvals process](#)
 - [View the guide to choosing and working with a PCA](#)
-

Reminders and updates

A1 accreditation applications: what to include

The Board works hard to process applications for accreditation as quickly as it can, and provides the following list of reminders for those applying for A1 accreditation.

To ensure your application can be processed without unnecessary delays, please:

- provide a comprehensive list of projects to demonstrate your relevant experience
- provide information regarding experience with:
 - alternative solutions involving fire safety requirements
 - fire engineering briefings
 - fire brigade referrals
 - buildings that exceed 25m in effective height
 - buildings that exceed the floor area and rise in storeys applicable to A2
- ensure your referees statements are from people with appropriate building surveying experience (either a person accredited in A1 unconditionally or someone who has the experience and qualifications equivalent to category A1 unconditional)
- provide six reports in relation to the most complex or major buildings you have worked on

- clarify your role on a project when working under supervision
- use the current [application form](#)
- provide a complete and comprehensive resume with all the information requested by the [annotated resume form](#) - and make sure each page is signed as accurate by the referees who have provided the referees statements (at least for the period of time covered by the resume that the referee provided the reference for)
- if you carried out assessments of applications for construction certificates and occupation certificates under supervision of an A1 accredited certifier, and those certificates were issued by that A1 accredited certifier, include the name of the A1 accredited certifier.

Voluntary Planning Agreements register

The Department of Planning and Infrastructure has set up a new register of Voluntary Planning Agreements (VPAs) entered into by the Minister for Planning and Infrastructure. The register shows the Departments VPAs through particular stages (notification, finalising and executed) and is available [online](#).

Have your say: section 109F(1A) option paper

The Board is undertaking a review of section 109F(1A) of the EP&A Act.

Section 109F(1A) was introduced in July 2007 to ensure construction certificates are issued before work is carried out consistent with the overall structure of the consent and certification processes under NSW planning legislation.

While it brought an end to the issuing of retrospective construction certificates, it also removed a level of consistency. While construction certificates cannot be issued retrospectively, development consents can be modified retrospectively under section 96 of the EP&A Act. As a result, even though completed work may be approved under section 96 of the EP&A Act, a construction certificate and occupation certificate cannot be issued for that work.

As part of the review, the Board has developed an [Option Paper](#) for comment. Feedback on the proposed option should be provided by email to policy@bpb.nsw.gov.au by 20 May 2011.

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Premises Standards update

Premises Standards have commenced!

The Commonwealth Disability (Access to Premises Buildings) Standards (Premises Standards) commenced on 1 May 2011. Interim arrangements as described on the Boards website remain in place until legislative changes are made.

The Australian Human Rights Commission has released further information:

- [Media release](#)
- [Backgrounder](#)

AIBS NSW is hosting a full-day seminar in Parramatta on 9 June on the application of the Premises Standards in NSW and the process of unjustifiable hardship. It will also review the latest changes to the Building Code of Australia under Parts D3, E3 and F2.

- [Find out more](#)

National Construction Code Series

Building Code of Australia

2011 sees the introduction of the National Construction Code (NCC) Series, comprising the Building Code of Australia (BCA) as Volume One and Two and the Plumbing Code of Australia (PCA) as Volume Three.

However, it should be noted that in NSW the PCA (Volume Three of the NCC) will not be referenced at this time. Further advice will be provided when NSW adopts the PCA.

The Building Code of Australia 2011 took effect on 1 May 2011. The Department of Planning and Infrastructure has developed *Planning Circular BS 11-002 - Building Code of Australia 2011 - key changes* to provide information on key changes as they apply to NSW.

- [View the circular](#)

Corrigendum - Volume One and Two (Corrections to the Building Code of Australia)

The Australian Building Codes Board (ABCB) has issued a corrigendum to amend BCA 2011 Volume One and Volume Two which clarifies in the energy efficiency provisions, that only spa pools that share a water recirculation system with a swimming pool are subject to restrictions on the type of heating able to be used. These provisions do not apply to portable spa pools.

View the affected provisions:

- Building Code of Australia - Volume One: J7.4(a): [updated page](#)
- Building Code of Australia - Volume Two: 3.12.5.7(b): [updated page](#)

Please note the affected provisions and insert the new pages within your hard copy product. The online version has already been updated.

Practice advice

Manufactured homes

We have been asked for advice on whether the installation of a manufactured home requires a construction certificate.

The installation of a manufactured home, moveable dwelling or associated structure requires council approval as an activity under section 68 of the *Local Government Act 1993* (LG Act). Also, as a manufactured home and moveable dwelling fall within the definition of 'relocatable home' they must satisfy the relevant provisions of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

Development consent may also be required under the EP&A Act to use land for the purpose of installing a relocatable home. If development consent is required, a combined development application and section 68 activity application can be made to council.

Regardless of whether or not development consent is required, a construction certificate is not required and should not be sought for the installation of a

relocatable home, as a construction certificate is only required for building work or subdivision work, and the installation of a relocatable home is not the same as the erection of a building under the EP&A Act. (The definition of 'building' in section 4(1) of the EP&A Act specifically excludes a manufactured home, a moveable dwelling or associated structure.)

Different approvals are required for flat-pack homes.

For detailed information on the approval requirements for relocatable and flat-pack homes, refer to Planning Circulars PS 05-007 and PS 06-018 on the Department of Planning and Infrastructure's [website](#).

Existing covenants

When issuing complying development certificates, there is not always an automatic requirement to check restrictions on titles such as covenants, easements or rights of way that affect the construction of buildings (unless a specific reference is made to restrictions in the relevant EPI).

However, given that it is in both the certifiers and the landowners interest not to issue a CDC that could breach a restriction placed on a certificate of title if the building is built to comply with the CDC, certifiers should advise landowners to check whether the certificate of title for the land has any restrictions.

If there are restrictions, the certifier should ask for a current copy of the certificate of title. Best practice would require the certifier to advise the landowner that building in accordance with any CDC issued may breach the restriction. The certifier should also advise the owner that the restriction should be removed from the certificate of title before building work starts.

Some specific covenants exist in State policies. For example, under the Rural Housing Code within [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) a development standard is included that, if, under section 88B of the *Conveyancing Act 1919*, a restriction is created that specifies a building envelope for a lot, development specified for this code may only be carried out within the building envelope specified. Therefore, the certifier would need to consider an application against that 88B instrument.

Change of PCA process

The principal certifying authority (PCA) can be changed by:

- obtaining agreement between the current PCA, the proposed replacement PCA and the person who appointed the current PCA or
- applying to the Board for approval.

If the PCA is changed by agreement, the Board does not need to be notified. However, if the council or the consent authority has not already agreed to the

change, the replacement PCA must notify them of the appointment within two days, using the [form](#) approved by the Board.

If any relevant parties do not agree to the PCA being replaced, the person having the benefit of development consent (usually the landowner) can apply to the Board for approval to change PCA using the [Application to replace the principal certifying authority](#).

The applicant must

- give reasons for applying to replace the current PCA and those reasons must be based on fact
- attach a copy of the notice of appointment of the current PCA.

The current PCA can only apply to the Board to be replaced with the written approval of the person with the benefit of consent.

Have your say...

Website user survey

We are continuously working to improve the way the Boards information can be accessed. Please take five minutes to fill out our website survey, and well let you know the outcomes in a future BPBulletin.

- Fill out the [survey](#)

Section 109F(1A) option paper

Dont forget, as part of the Boards review of section 109F(1A) of the EP&A Act an option paper has been developed for comment.

Feedback on the proposed option should be provided by email to policy@bpb.nsw.gov.au by 20 May 2011.

- View the [option paper](#)
-

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Part 3A changes

Transitional arrangements announced

A significant number of residential, commercial, retail and coastal projects have been removed from the Part 3A assessment system and handed back to local councils for assessment under transitional arrangements announced by the Minister for Planning and Infrastructure the Hon. Brad Hazzard MP.

The transitional arrangements have been given effect via an amendment to the Major Development State Environmental Planning Policy and represent an important step in the process of repealing Part 3A in its entirety.

- [Find out more](#)
-

Premises Standards

Implementation of the Premises Standards

We will provide all updated advice on the Premises Standards on the [dedicated webpage](#) as the required regulatory changes are made.

We will also send advice and guidance through the BPBulletin, so please ensure any colleagues who don't receive the BPBulletin are signed up to receive it via the forward option at the base of this e-newsletter.

- [View the Premises Standards page](#)
-

Reminders and updates

Exempt and complying development and the standard instrument LEP

Gazettal of a councils standard instrument LEP means the councils exempt and complying DCP no longer applies.

It is only when complying development involves a different development type to those defined in *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008* (the Codes SEPP) that the development is provided for in a standard instrument LEP. Certifiers should check the validity of a councils LEP before issuing a complying development certificate under the council policy.

This advice is in addition to our BP Bulletin of 8 April 2011, which reminded certifiers that the transitional provisions for all council exempt and complying policies expire on 1 September 2011, regardless of whether a standard instrument LEP is gazetted.

Website survey reminder

Dont forget were keen to hear your thoughts on the Boards website - could we structure the information better, include more or less information, provide a better search tool? Let us know your thoughts on this quick, five-minute survey.

- [View the survey](#)
-

Practice advice

Conflict of interest - accredited certifiers attending meetings with council

We have been asked for advice on the role of an accredited certifier when attending meetings with council to discuss compliance with conditions of development consent.

Under section 67 of the *Building Professionals Act 2005* (BP Act) and clause 17 of the BP Regulation, an accredited certifier is involved in the design of any aspect of a development by:

- being involved in preparing plans and specifications for that aspect of the development
- providing advice on how to amend the plans and specifications relating to the aspect of the development so that they will comply with the applicable legislative requirements, other than advice on how to amend

- plans and specifications so that they will comply with the deemed-to-satisfy provisions of the Building Code of Australia (BCA)
- proposing design options for the aspect of the development, including alternative solutions under the BCA.

Being involved in the design for part of a development reduces an accredited certifier's ability to objectively assess and determine a Part 4A certificate for that part of the development. Therefore, a certifier in a regulatory role cannot also act in an advisory role for the same aspect of the development, except in the limited circumstances identified in clause 17(a) of the BP Regulation. As a public official, an accredited certifier must not act as an applicant's design representative advocating solutions to council on behalf of an applicant.

If an accredited certifier attends a meeting with council to discuss compliance with conditions of consent, they should limit their advice to whether a proposal complies with the legislative requirements or the BCA.

Conflict of interest - strata certificates

In accordance with section 67 of the BP Act and clause 17(c) of the BP Regulation, an accredited certifier is considered to be involved in the design of the development, and will have a conflict of interest under those provisions, if they issue a strata certificate where they, or a related person, prepared the relevant strata plan, strata plan of subdivision or notice of conversion under the *Strata Schemes (Freehold Development) Act 1973* or *Strata Schemes (Leasehold Development) Act 1986*.

A related person is defined in section 68 of the BP Act and includes a colleague who works in the same company or partnership as the accredited certifier, or who works in a related company.

Part 4A certificates for multiple consents

The Board was recently made aware of one construction certificate, one fire safety schedule and one occupation certificate being issued for separate buildings approved under separate development consents and on separate allotments of land.

While the EP&A Act and Regulation do not preclude this scenario, this is not the intent of the legislation and it is not best practice to issue a single Part 4A certificate to cover different developments.

Building circular correction

Building Circular: BS 11-002 - Building Code of Australia 2011 - key changes issued on 29 April 2011 contained a typographical error. Please note the following change:

Regarding the new classification for private bushfire shelters, "Class 1c" should read "Class 10c".

- [View building circulars](#)

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BPB addresses AAC public forum

Building Professionals Board director Neil Cocks was part of an AAC public forum that discussed the role of accredited certifiers and reliance on component certification.

Neil's presentation has been placed on the Board's [website](#).

Premises Standards

Director-General's concurrence

The Disability (Access to Premises - Buildings) Standards (the Premises Standards) and accompanying changes to the Building Code of Australia (BCA) commenced on 1 May 2011.

Implementation of the Premises Standards in NSW includes the establishment of an Access Advisory Committee that can assess applications for unjustifiable hardship exemptions. At present the process is not mandatory and the Committee's decisions are advisory only.

The Director-General of the Department of Planning and Infrastructure has delegated his concurrence power under clause 187(7) of the EP&A Regulation to the Chairperson of the Access Advisory Committee. This means that if a recommendation of the Committee to grant an exemption from a requirement of the Premises Standards Access Code is made in relation to an application for a construction certificate, the Chairperson of the Committee can also grant concurrence to non-compliance with a corresponding provision of the BCA, as required by clause 187(7). The certifying authority can then issue the construction certificate.

Without a recommendation and concurrence from the Committee, the certifying authority for the application for the construction certificate must obtain the Director-Generals concurrence under clause 187(7) on the basis that compliance with the requirements of the BCA is unnecessary or unreasonable in the circumstances, requiring a separate application.

The delegation from the Director-General relates only to the disability access provisions under the BCA for which there are equivalent provisions under the Access Code.

[Access consulting: nationally recognised qualification](#)

The Institute of Access Training Australia commenced the Certificate IV in Access Consulting in May 2011, a course currently being undertaken by 23 students (a number of whom are building certifiers from NSW). The second course will commence in February 2012 and enrolments will open on 15 July 2011.

The course can be tailored and delivered specifically to building professional group members subject to suitable enrolment numbers. Contact the Institute for further information.

[Visit the Institutes website](#)

Practice advice

[Amendments to the Affordable Rental Housing SEPP \(AHSEPP\)](#)

The NSW Government announced changes to the AHSEPP on 20 May 2011.

The changes involve amending and removing certain provisions of the AHSEPP, and retaining those provisions which encourage new affordable rental housing that is compatible with its surroundings and in locations that are well served by public transport.

[Read more](#)

Reminders

[Notices when Council Accredited Certifiers start or end employment](#)

Councils must notify the Board in writing when a council accredited certifier

commences employment or ceases to be employed by the council, as per [clause 20D](#) of the Building Professionals Regulation 2007.

To comply with the clause, councils must, within seven days of the event, notify the Board of the date the certifier commences work in a position that involves them carrying out certification work on behalf of the council, along with the certifiers accreditation number, or notify the Board of the date the certifier ceases to be employed by the council in such a position.

NCC 2011 webcasts

The ABCB has placed a webcast on the National Construction Code 2011 online providing an opportunity to hear about the National Construction Code from the experts.

[View the webcasts](#)

Have your say

NCC 2012 Volumes One and Two - Public Comment Draft

The Australian Building Codes Board has placed draft changes for the 2012 edition of the National Construction Code Volume One & Two - Building Code of Australia on their website for public comment and to give BCA users advance notice of proposals that may take effect from 1 May 2012.

[Visit the website](#)

Website survey

Have your say on the structure and content of the Board's website by taking five minutes to fill in the Board's [website survey](#).

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Message from the Board President

Thank you to our TRG

As the Board continues to work with industry, certifiers and local government to identify and promote improvements to the certification system in NSW, I want to take some time to express both my personal thanks, and the thanks of the Board, to the members of our Technical Reference Group (TRG).

The TRG was established in November 2009, and since then each member has made a valuable contribution. We're increasingly turning to the TRG to obtain direct industry feedback on proposed legislative changes and to test proposed policy positions on important matters such as inspection requirements, consumer brochures and NSW's implementation of the Commonwealth's Premises Standards.

The TRG includes representatives from a range of professional bodies - including the Association of Accredited Certifiers, Australian Institute of Architects, Australian Institute of Building Surveyors, Housing Industry Association, Local Government and Shires Associations, Master Builders Association, Office of Fair Trading and Property Council of Australia - along with a number of private and council accredited certifiers and other specialists.



We greatly appreciate the time, dedication and measured recommendations we've received from the TRG, and we're looking forward to continuing this work with current and new members.

Our full list of TRG members is below.

Regards

Sue Holliday
President, Building Professionals Board

Archicentre <ul style="list-style-type: none">• Mr Peter Sarlos	Housing Industry Association <ul style="list-style-type: none">• Mr David Lawrence
Association of Consulting Engineers Australia <ul style="list-style-type: none">• Mr Micael Lundqvist• Mr Jason Jeffress	Local Government and Shires Associations <ul style="list-style-type: none">• Mr Brett Daintry• Mr Roman Wereszczynski• Mr Trevor Taylor• Mr Steven Campbell
Association of Accredited Certifiers <ul style="list-style-type: none">• Mr Craig Hardy• Mr Robert Marinelli• Mr Stephen Natilli• Mr David Blackett• Mr Andrew Dean• Mr Gordon Wren (also representing the Professional Surveyors Occupational Association)	Master Builders Association (NSW) <ul style="list-style-type: none">• Mr Peter Meredith
Australian Institute of Architects <ul style="list-style-type: none">• Mr Michael Mandl	NSW Access Consultants Network <ul style="list-style-type: none">• Mr Mark Relf
Australian Institute of Building Surveyors (NSW Chapter) <ul style="list-style-type: none">• Mr Allan Harriman• Mr Garry Poole	NSW Rural Fire Service <ul style="list-style-type: none">• Mr David Boverman
Building Designers Association of NSW <ul style="list-style-type: none">• Mr Ian Bassett	Property Council of Australia <ul style="list-style-type: none">• Ms Inna Kiner• Mr Nicholas Ferrara
Engineers Australia	Society of Fire Safety <ul style="list-style-type: none">• Dr Marianne Foley• Mr Peter Gardner
	Urban Taskforce Australia

<ul style="list-style-type: none">• Mr Steve Finlay Fair Trading NSW <ul style="list-style-type: none">• Mr Paul Dengate Fire and Rescue NSW <ul style="list-style-type: none">• Mr Greg Buckley	<ul style="list-style-type: none">• Mr Stephen Taylor Private accredited certifiers <ul style="list-style-type: none">• Mr Greg Pooley• Mr Greg Patten• Mr Anthony Krilich• Mr Brendan Bennett• Mr Peter Campbell• Mr Stephen Watson
--	--

Updates

Exemption relating to conflict of interest for council certifiers

Over 60 submissions were received in response to the Board's review of the exemption provision for council accredited certifiers in the Building Professionals Regulation.

We have considered the submissions received and have consulted with the Independent Commission Against Corruption and the Division of Local Government. We'll commence further consultation with councils and council accredited certifiers shortly and, in the meantime, thank those who made a submission on this important matter.

Consumer brochures - online orders

We are preparing to print and distribute copies of our [Guide to the Building Approvals Process](#) and [Guide to Working with a PCA](#).

While many councils have previously advised how many copies they require, the diversity in responses has required a switch to an online order form. This more sustainable mechanism will ensure councils, private certifiers and other stakeholders receive the appropriate number of copies.

Those not wishing to receive hard copies are of course welcome to link to the brochures online, using the links above. They can also notify us of their decision to do so via the order form, which will allow us to send out automatic updates when new or updated brochures are placed online.

To order your brochure copies, please complete the [online order form](#) by Friday 15 July. Delivery is expected around two weeks after that date.

Practice reminders

Reminder about changes taking effect from 1 July 2011

Don't forget that a number of changes made to the EP&A Regulation in December will commence from 1 July 2011.

These changes include increases to the fees charged by councils for development applications, planning certificates and the lodgement of certificates.

As an example of the fee changes, the maximum fee for the lodgement of Part 4A and complying development certificates will increase from \$30 to \$36 and the fee for a section 149(2) planning certificate will increase from \$40 to \$53.

[View the regulation](#)

Also from 1 July 2011, a \$50 fee will apply for a BASIX certificate for a single detached dwelling and \$25 for alterations and additions to provide for the ongoing administration and maintenance of the BASIX online tool.

[Read More](#)

Recommended courses for council accredited certifiers

Council accredited certifiers who have obtained accreditation on experience alone are encouraged to undertake a Building Surveying course to help them progress to a higher category of accreditation (which will be essential for progression from March 2013).

The list of courses recognised by the Board is included in Schedule 3 Part 2 of the [Accreditation Scheme](#).

Record keeping for career progression

Whether you're just starting your career or you're already accredited but are working towards accreditation in a higher category, it's a good idea to keep a record of the projects you have worked on and notes of your involvement carrying out assessments and inspections of buildings. This will put you in good stead when applying for accreditation or applying for a higher category of accreditation.

Section 94 contributions

[Ashfield Council - section 94 contributions for complying development](#)

Ashfield Council has asked the Board to remind certifiers that conditions must be attached to a complying development certificate (CDC) requiring applicable section 94 or section 94A contributions to be paid to Council.

A contributions plan may specify that an accredited certifier must, under section 94EC of the EP&A Act, impose a condition on a complying development certificate requiring the payment of a monetary contribution in accordance with that plan.

Council's advice follows its ongoing program of auditing CDC approvals, which found a small number of CDCs have been issued without the relevant condition being attached and, as a result, Council has not received the contributions.

Certifiers should refer to Ashfield Council's contributions plans and current Fees and Charges to calculate current contribution rates. These are accessible from Ashfield Council's [website](#).

Accreditation exam

Accreditation exams will be held at the Board's offices in Parramatta on 30 June 2011 and 5 July 2011. Further dates will be advised through the BPBulletin.

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

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Spotlight on...

... the Board's Disciplinary Committee

This edition, we take a look at the Boards Disciplinary Committee.

The Disciplinary Committee is often seen as the bad guy of the certification industry, when its purpose is ultimately to help improve the system and encourage safety, efficiency and transparency in certifiers' processes.

One of the key points to remember is that not all complaints received by the Board end up at the Disciplinary Committee. The Board can dismiss complaints at any time throughout the process of investigation and this process also provides various opportunities for the Board to make contact with certifiers who are the subject of a complaint, often leading to direct mediation or the withdrawal of a complaint.

In the year to 30 June 2011, the Board received 92 complaints and the Committee reviewed 70 complaints. Of those reviewed, 45 were dismissed.

Complaints that go before the Disciplinary Committee are subject to a rigorous process of investigation, and legal consideration is also given to the complaint in regards to relevant legislation, the Boards Code of Conduct, and a certifiers role as a public official before it goes to the Committee.

The current Disciplinary Committee is made up of four Board members Graham Huxley (chair), Margaret Hole, Geoffrey Douglass and Michael Whelan along with various professionals from industry or government, two of which attend each Committee meeting. If a complaint before the Committee calls for it, a sector-specific professional, such as fire safety expert, will be specifically invited to attend.

A Disciplinary Guideline detailing the application of penalties can be found on

the Boards website, as can an updated information sheet on the Boards disciplinary powers.

- View the [Disciplinary Guideline](#)
- View the [disciplinary powers information sheet](#)

Making a complaint: updated information sheet

A decision of the June Disciplinary Committee was to highlight the Board's general policy to dismiss complaints where they relate to a matter that occurred more than three years before the making of the complaint and to provide advice as to the particulars of dismissing a complaint (which can occur at any time).

View the updated [information sheet](#)

Council accredited certifiers

Conflict of interest provisions

The Board is continuing its review of the conflict of interest provisions in the *Building Professionals Act 2005* and Building Professionals Regulation 2007 (BP Regulation). After considering a range of options and consulting with the Independent Commission Against Corruption and the Division of Local Government, the Board is further consulting with Council general managers and council accredited certifiers on a preferred approach.

Reminders

Consumer brochures - online orders

Don't forget to let us know how many copies you require of our [Guide to the Building Approvals Process](#) and [Guide to Working with a PCA](#) via our [online order form](#) by 15 July. Delivery is expected around the end of July.

The online form gives councils, private certifiers and other stakeholders the option to order the appropriate number of copies and also provides an opportunity for those who will link to the brochures instead to register, ensuring they will receive automatic updates when new or updated brochures are placed online.

There is no charge for the brochures.

Codes SEPP and other approvals

Don't forget that in order to be 'complying development' under the Codes SEPP, related approvals if required - including approvals for driveway access,

drainage, tree removal and mine subsidence - must be obtained prior to the issue of a complying development certificate.

The Department of Planning and Infrastructure's user guide "NSW Housing Code: A guide to complying development" provides useful information on applying the Housing Code. The user guide should be read in conjunction with the Codes SEPP and is available from the housing code [website](#).

2011 AIBS NSW State conference

The Board's President Sue Holliday will be discussing the Board's role in enhancing professionalism at the AIBS NSW State conference on 2 August. Board director Neil Cocks will also be speaking as part of a forum focusing on the role of the PCA.

To find out more about the conference, visit the [AIBS website](#).

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Message from the Board's President

Planning review

As you will have seen in the news last week, the NSW Government has embarked on a review of the States planning legislation, to be led by a Planning Review Panel.

This is great news. Over the last 30 years, the EP&A Act has been amended over 140 times - this constant change to the legislation has been identified to us as one of the main issues faced by certifiers.

And, knowing that it is our certifiers who work on the ground and know the ambiguities and nuances of the planning legislation, I am keen to ensure you all have significant input into the consultation process.

We are waiting to find out exactly how the Planning Review Panel will work and how it will receive input both from outside and within the NSW Government. In the interim, I have written to the Minister for Planning and Infrastructure to reiterate the Boards wish that the certification system receives its due consideration as part of the review and to offer our assistance in coordinating input to the process.

The review will be divided into three stages over the next 18 months. We will keep you updated on how and when certifiers can get involved in the review.

More information is available directly from the Department of Planning and Infrastructures [website](#).



Sue Holliday

President, Building Professionals Board

Letter to the AAC

I recently sent a letter to the Association of Accredited Certifiers (AAC) on the issue of principal certifying authorities relying on third party certificates and other matters.

- View the [letter](#)
-

Practice advice

Reminders and advice from the Accreditation Committee

Did you know the Boards Accreditation Committee reviewed 853 applications/renewals for accreditation in 2010/11?

As a result of their work, members of the committee have a current and clear understanding of certification practices right across NSW and by every type of certifier. The committee has identified a number of technical issues that certifiers must address as they undertake their day to day role.

The following practice advice relates to these issues and has been developed in consultation with the Department of Planning and Infrastructure's Building Systems Unit.

- View the Practice Advice on [Section A of the BCA](#)
 - View the Practice Advice on [fire safety schedules](#)
 - View the Practice Advice on [performance requirements](#)
-

Returning to work...

... as a council accredited certifier

Council building surveyors who have taken extended leave from work have contacted the Board for advice on getting back into the industry since the introduction of council accreditation. The following advice should assist those applying to work as a council accredited certifier:

- While some councils are willing to employ building surveyors who aren't accredited (on the basis that they will apply for accreditation once employed), there is no need to be employed at a council to apply for council accreditation.

- However, applicants require the recommendation of a council general manager to apply for council accreditation. Applicants can approach their previous council employer to provide references and documentary evidence demonstrating the applicant's experience. They can also approach their past employer to complete the recommendation on the application form - the Board has received and approved applications where council general managers have done this for past employees.
 - Applicants wanting to work as a contractor for a council require professional indemnity insurance. They can obtain their own insurance or be covered by a company's insurance policy. Some recruitment agencies have obtained company professional indemnity insurance to cover certifiers they contract out.
 - Category A2, A3 and A4 council certifiers do not need qualifications, but do need to demonstrate required experience. The application forms and the assessment guides for council accreditation on the Board's [website](#) describe the information required to demonstrate that an applicant satisfies the experience requirement.
 - It may also be worth including a completed accreditation application form with an application for employment as well as supporting documentary evidence such as a list of projects to demonstrate experience. This may allow prospective employers to determine that they can support an application for accreditation after employment.
-

Upcoming conferences

Building Australia's Future conference

The Australian Building Codes Board is holding the 'Building Australia's Future' Conference from 18-21 September on the Gold Coast.

The conference program includes discussions and interactive workshops and features internationally and nationally renowned speakers and workshop presenters meaning attendees can engage with influential industry and academic professionals.

The conference is themed around the most topical issues facing the industry: *Operating with Codes and Standards*, *Access for All* and *Buildings the Environmental Balance*. The social program also provides networking opportunities.

- Fine out [more](#)
- To register, email baf2011@abcb.gov.au or phone 1300 134 631.

Livewire conference

The LiveWire Network is a group of local government professionals brought together to encourage an innovative and forward thinking mind-set that attracts the best talent.

The LiveWire Conference 2011 will be held in Wollongong on 28 and 29 September. Local government professionals will be able to build leadership capacity, gain valuable skills, learn how to influence positive change and network with others.

- For more information and to register visit www.livewirenetwork.com.au or call 02 4227 7467.

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Spotlight on... The Accreditation Committee

The Boards Accreditation Committee meets around 10 times a year to assess new applications for accreditation. While the Committee doesn't consider annual renewals, it does assess applications for a higher category of accreditation, or applications for the same category of accreditation but with conditions removed.

The Committee requires a quorum of two board members (Michael Wynn-Jones, as chair, and Alison McCabe, with Tone Wheeler an alternative member) and at least one additional member from a panel of experts (although two additional members from the panel of experts usually attend).

With applicants able to apply for accreditation in up to 21 different categories of accreditation, panel members are called on to bring their expertise to the assessment of applications in areas such as civil engineering, fire safety systems or land surveying.

New applicants need to provide information about their particular experience - this includes a list of projects they have worked on and an experience report that provides a narrative on the particular role they played and the tasks they undertook on six of their most significant or complex projects.

This experience is an essential element of an application, and, alongside information on qualifications, and general information such as whether the applicant has the correct insurance cover and meets the 'fit and proper person' requirements, it contributes to the Committee's decision.

By assessing applicants' descriptions of their relevant experience, and the particular roles that are undertaken, the Accreditation Committee has a unique insight into certification practices and processes. The Committee will

continue to offer formal practice advice through the BP Bulletin when it becomes apparent that technical issues or practices need to be improved or clarified.

Latest news from the Board

Presentation to the AIBS State conference

The Board's President Sue Holliday addressed the AIBS State conference earlier this week. The conference's theme was *Building in Safety* and Sue reiterated the Board's position that enhanced professionalism across the sector will lead to better outcomes for building safety. Sue's speech was followed by a panel that discussed the role of the PCA and included Board Director Neil Cocks.

- [View Sues presentation](#)

Snapshot of certification in NSW

In its recent meeting with the Minister, the Board presented a snapshot of certification in NSW, based on statistics included in the Local Development Monitor 2009/10.

- [View the snapshot](#)
-

Reminders and updates

ABS statistics needed

As we all prepare for next week's national Census, we're reminded of how important Australian Bureau of Statistics (ABS) data is - it helps us to plan for the future by identifying the trends that shape how and where we live, do business, travel and build.

The ABS relies on certifiers to provide statistical data - such as the gross floor area of buildings or estimated costs of development - in applications for construction certificates (CCs) and complying development certificates (CDCs).

Information on what must be included is detailed in Parts 2 and 3 of Schedule 1 of the EP&A Regulation.

High roof guttering

The High Front Guttering Advisory Committee has investigated concerns that high front guttering products and installation techniques may cause damage to residential properties.

The Committee, formed in late 2010, examined evidence collected by NSW Fair Trading, and met with government agencies, manufacturers, installers and stakeholders.

Reporting in late July, the Committee found 'no evidence of a systemic problem concerning high fronted guttering'. It has made a number of recommendations relating to managing overflow, consistency and clarification of standards, building certification, and industry skills, education and training.

Fair Trading will work with government and industry to implement these recommendations.

- [Find out more](#)
-

Practice advice

Assessing existing exits

Our latest practice advice clarifies the Boards position for certifiers assessing whether proposed internal alterations in industrial buildings are complying development and whether existing exits that service the area of the alteration meet the performance requirements of the Building Code of Australia.

- [View Practice Advice 11-004](#)
-

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Spotlight on... the Board's audit program

The EP&A Act prescribes many requirements that certifying authorities need to follow when carrying out certification work. The Board's audit program assesses the administrative practices used by certifying authorities to comply with legislative requirements and provides feedback and advice to help improve practices and procedures.

Our team of auditors has comprehensive knowledge of the EP&A Act and the Building Code of Australia. In 2010/11, they undertook 68 audits, comprising 48 of accredited certifiers and 20 councils outside of the Sydney region.

Our focus on country councils will continue in 2011/12. The audits use a process of assessment, discussions and debriefing to provide direct feedback to country councils who do not generally have the same access to advice and assistance as their city counterparts.

Our investigators have reported positive feedback from councils audited in the past financial year, who generally welcomed the audits as an independent check or validation of their operations. They also identified debriefing sessions as a valuable way to discuss findings, seek direction for remedial action and clarify issues.

Country councils have also welcomed the opportunity to discuss issues they face when implementing legislation. We use this information and other audit results to identify education gaps and to develop improvements to legislated certification processes.

Snapshot: Complaints in 2010/11

The Board has compiled information in relation to the complaints received and determined in 2010/11.

- [View the snapshot](#)
-

Practice advice

Section 73 certificates

Certifiers and councils are reminded that the issue of a construction certificate should not be conditional on receiving a copy of Sydney Water's Notice of Requirements for a section 73 certificate under the *Sydney Water Act 1994*. Sydney Water has informed us that some certifiers and councils are withholding construction certificates until they receive a copy of the Notice of Requirements, leading to delays in development.

In accordance with Sydney Water's guidelines, a condition of consent requiring a section 73 certificate should not require the Notice of Requirements to be obtained prior to the issue of a construction certificate. Sydney Water will be issuing updated guidelines to all councils shortly to reaffirm this position.

In the meantime, read [Sydney Waters information](#) on the types of developments that require a section 73 certificate.

AIBS Seminar series: Premises Standards

The Australian Institute of Building Surveyors (AIBS) NSW Chapter is running a seminar series from September to November.

The seminars will address the application of the Premises Standards in NSW and the process for unjustifiable hardship and will also review the latest changes to the Building Code of Australia under Parts D3, E3 and F2.

- [Find out more](#)
-

Consultation and exhibitions

New SEPP on exhibition

The Department of Planning & Infrastructure invites comment on the proposed State and Regional Development State Environmental Planning Policy (SEPP) 2011.

The proposed SEPP will give effect to a set of policy statements tabled by the Minister for Planning and Infrastructure, following the repeal of the Part 3A development assessment system. The [policy statements](#) outline the types of development proposed to be considered of State and regional significance at the time Part 3A was repealed.

Comments are invited until 2 September 2011.

- [Find out more](#)

Disclosing environmental performance information for residential buildings

The Council of Australian Governments (COAG) is investigating the benefits and costs of implementing legislation that would require energy, water and greenhouse gas performance information to be disclosed when a property is placed on the market for sale or rent.

A Consultation Regulation Impact Statement (RIS) has been prepared through the Building Implementation Committee of the Ministerial Council on Energys (MCE) Energy Efficiency Working Group.

The RIS proposes six options, covering the full range from technically-detailed assessment through to a checklist approach and a voluntary scheme. It also considers the options of disclosure at point of sale only, versus point of sale and lease.

- [Read the fact sheet](#)
- [Find out more](#)

Website updates

New accredited bodies corporate info sheet

The Board has updated its online information for accredited bodies corporate.

- [View the information sheet](#)

Council accredited certifiers: application and renewal forms

Application and renewal forms for council accredited certifiers were updated in May and June this year. However, a number of council accredited certifiers are still using the old ones. Please ensure you use the forms dated May 2011 (for renewals) and June 2011 (for new applications)

- [View application forms](#)
- [View renewal form](#)

[New notice to notify the Board of council employee changes](#)

The Board has developed a notice to assist councils with meeting their obligation of notifying the Board when a council accredited certifier either commences employment with a council, or ceases to be employed by the council.

It is not compulsory to use the form; it has simply been developed to assist the process of notification.

- [Open the form](#)
-

[AAC Conference - September 2011](#)

The AAC Building Confidence through Leadership Conference is a one day event at the WatersEdge in Sydney on Friday 16 September 2011.

- [Find out more](#)
-

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NSW Planning Review

New website

As we've reported in earlier BPBulletins, the NSW Government has established an independent panel to review the EP&A Act along with the broader planning system. The aim is to create a new planning system that meets today's needs and priorities. A new dedicated website and video channel have been established to make it easier for everyone to get involved.

- [Visit the dedicated website](#)
- [Visit the dedicated video channel](#)

Reminders and updates

Issuing Part 4A certificates and complying development certificates

Councils are reminded that any Part 4A and complying development certificates they issue in relation to building work must be issued by either council accredited certifiers or certifying authorities engaged to issue these certificates on behalf of council.

Council town planners who do not hold Board accreditation are not able to issue these certificates.

Further details are set out in the Department of Planning & Infrastructures [Planning Circular](#) and the Boards [Information Sheet](#).

Including BASIX requirements on certificate details

The Board has updated its information sheet on BASIX requirements, and reminds certifying authorities to ensure all requirements are listed on the plans or specifications at each relevant stage during development. This will help ensure the builder is aware of the requirements during construction and enable certifying authorities to issue the occupation certificate at the end of construction.

- [View the updated information sheet](#)
-

Practice advice

Codes SEPP - transition period

The draft *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Miscellaneous) (No. 2) 2011* will be on exhibition shortly.

The draft SEPP proposes to extend transition provisions for council DCPs and LEPs relating to exempt and complying development under Clause 1.9 beyond 1 September 2011. This would continue the concurrent operation of the complying development provisions in council plans alongside the State policy until a standard instrument LEP has been made for that LGA.

The draft SEPP would also extend the operation of the complying development provisions in *State Environmental Planning Policy No. 60 Exempt and Complying Development (SEPP 60)* and *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (the Growth Centres SEPP) until 1 September 2012.

The SEPP also makes minor amendments to development standards for front setbacks and privacy screens for detached studios on a rear lane and inserts an additional local variation within part of the Palerang LGA (formerly in Cooma-Monaro).

This means that from 1 September 2011 and until this draft SEPP is made, council controls and the controls under SEPP 60 and the Growth Centres SEPP for complying development will not operate. All complying development certificates (CDCs) for the relevant development types will be required to be issued under the Codes SEPP in this intervening period.

Alternatively, undetermined applications for CDCs lodged under council controls, SEPP 60 or the Growth Centres SEPP can be held over and determined after the draft SEPP is made. Another option is for applicants to relodge their CDC applications as development applications with councils during this period.

The Department of Planning and Infrastructure (DP&I) will review submissions made during exhibition as quickly as possible in order to make a final recommendation to the Minister about the form and content of the proposed draft SEPP.

Please contact the DP&I Housing Code team on (02) 9228 6157 or email codes@planning.nsw.gov.au with any queries.

Council accredited certifiers

Council accreditation - one year on

Yesterday marked one year since the requirement for council officers to be accredited in order to carry out building certification work commenced.

The Board currently accredits 854 council accredited certifiers - and we've been kept busy with 776 council accredited certifiers renewing their applications since March this year.

Expert advice from the TRG

The Board continues to consult directly with its Technical Reference Group (TRG), which we featured in the 24 June edition of the BPBulletin. The TRG provides specialist advice on policy proposals and legislative changes

In the last 12 months or so, issues in which the TRG provided advice include:

- amendments to referral requirements to NSW Fire and Rescue under clause 144 (and 152) of the EP&A Regulation
- the Boards new Standard Forms
- proposed inspection guidelines
- fire safety compliance certificates
- new certification for spa pools

- the possible expansion of the certification system
 - the Boards consumer brochures
 - input into regulation changes for the Premises Standards
 - the review of the BP Act
 - whether to allow retrospective construction certificates in certain limited circumstances (section 109F(1A) of the EP&A Act).
-

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New Standard Part 4A forms

The Board has developed a set of Standard Forms for use by individual private accredited certifiers for development that is not complying development and the consent authority is a council.

The Standard Forms reflect statutory requirements and also include additional matters as advised by our Technical Reference Group (for example, where notices are received by council).

Certifiers are encouraged to use these forms as a basis to review the forms they currently use in their certification processes.

A further suite of standard forms is being prepared to cover other common processes, such as individual certifiers issuing complying development certificates and councils issuing complying development and construction certificates.

- [View the Standard Forms page](#)

Newcastle Uni course recognised

The Boards Accreditation Scheme was amended on 2 September 2011 to include the Bachelor of Construction Management (Building) - University of Newcastle in the qualifications recognised by the Board in Schedule 3 part 2 of the Accreditation Scheme for Categories A1, A2 and A3. This applies to people commencing this course from 1 January 2011 only.

In addition, students who commenced the course from 1 January 2011 are, while studying, eligible for accreditation in Category A4 Accredited certifier - building inspector if working under the supervision of a person accredited in Category A1, A2 or A3.

Other minor amendments were made to Schedule 3 Part 2 of the Accreditation Scheme to recognise other building surveying qualifications currently accredited by the AIBS.

- [View the new Scheme](#)

Reminders

Premises Standards - Access Advisory Committee reminders

The Access Advisory Committee has the following tips and reminders in relation to applications for assessment of unjustifiable hardship under the Premises Standards:

- Only the certifying authority can lodge an application to the Access Advisory Committee.
- Applications must demonstrate that compliance with the provisions of the Access Code for Buildings in the Premises Standards would impose unjustifiable hardship.
- Applications need to clearly address all matters in Part 4.1 of the Premises Standards.
- Applications need to demonstrate how compliance will be achieved to the maximum extent possible with the relevant matters in the Access Code.
- Applications to the Committee are not required if the relevant non-compliance with the Standards are excused by any of the exceptions contained in Parts 4.3 (Lessees), 4.4 (Lift concession) and 4.5 (Toilet concession).

Please also remember that the unjustifiable hardship exception under the Premises Standards only applies to a requirement/s of the Standards and not to varying or deleting a condition of development consent.

Premises Standards - Hotline

It is recommended that certifying authorities contact the Premises Standards Hotline on 1300 001 619 to discuss their application for unjustifiable hardship before lodging a formal application to the Access Advisory Committee.

All other queries should go through to our switch on (02) 9895 5950.

Swimming pool safety

As advised in our BP Bulletin of 25 March this year, amendments to the Swimming Pools Regulation 2008 commenced on 1 May 2011.

The amendments include a new savings and transitional clause (clause 22A). The effect of clause 22A is that where a child-resistant barrier and/or means of access to a pool complied with standards prescribed under the Swimming Pools Act 1992 and those standards are amended, the child-resistant barrier and/or means of access are taken to continue to comply with the amended standards. However, if the child-resistant barrier is substantially altered or rebuilt, the standard applicable at the time of alteration or rebuilding will apply.

When assessing applications on properties involving an existing or new swimming pool, certifiers must refer to the current swimming pool legislation. For further information see [Swimming Pool Regulation 2008](#) and [Division of LG Circular No. 11-04](#).

You may also wish to review <http://www.safewaters.nsw.gov.au/> for more information.

Consultation

Planning review community forums

Community forums are being held in 43 locations across NSW from this week as part of the comprehensive two-month consultation and listening tour for the planning system review.

Anyone is welcome to attend the sessions to discuss the principles and objectives that should form the bedrock of any new planning system.

- [View a map and list of the consultation locations](#)

You may also wish to review notes from the stakeholder meetings that have taken place so far:

- [Stakeholder meeting notes](#)

Codes SEPP exhibition

Following the article in our last Bulletin, the NSW Government is exhibiting a proposal to allow the continued use of council planning controls for complying development proposals, alongside the Statewide Government codes as outlined in the State Environmental Planning Policy (exempt and complying development codes)2008 (the Codes SEPP).

- [Find out more on the fact sheet](#)

Individuals and organisations are invited to comment on the proposed SEPP amendment before 19 September 2011 [here](#). Submissions will be made publicly available online.

Events

AIBS Premises Standards seminars

The AIBS is holding a roadshow of seminars that will address the application of the Premises Standards and the process of unjustifiable hardship including the methodology to be used and details required for applications to the Access Advisory Committee. The Seminar will also review the latest changes to the Building Code of Australia under Parts D3, E3 and F2.

- [Find out more](#)

PEEPs - a new approach

The NSW Chapter of the Society of Fire Safety is holding a special topic seminar on 5 October 2011 at Castle Hill RSL Club. The seminar will cover many changes in AS.3745-2010, Planning for Emergencies in Facilities Standard with emphasis on Personal Emergency Evacuation Plan (PEEPs).

- [Find out more](#)
-

Got a story?

We are always on the look out for case studies or stories relating to the certification system in NSW. If youve got a story you want to share or you simply want to dob in your boss for his or her story then drop an email to policy@bpb.nsw.gov.au.



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Board appointments

The Minister for Planning and Infrastructure has approved the appointment of members of the Building Professionals Board for another six months.

The makeup of the Board remains the same, except for the departure of Mr Graham Huxley, who made a significant contribution as a Board member and Chair of the Disciplinary Committee for the past three years.

- [Read more about the Board](#)

Expansion of the EHC Project

Call for Expressions of Interest

The NSW Department of Planning and Infrastructure, in partnership with the Local Government and Shires Associations of NSW, is pleased to announce that, following an investment of \$4.33 million from the NSW Government for the expansion of the [Electronic Housing Code](#), a formal Expression of Interest (EOI) process has now commenced to include a further 24 Councils.

The EOI closes Friday 21 October 2011.

Later in the year, a similar process will be followed to introduce additional private accredited certifiers. The system is expected to be expanded to include the Commercial and Industrial Development Code in mid-late 2012.

- [Find out more](#) or email ehcteam@planning.nsw.gov.au
-

Snapshot of NSW Councils

The Minister for Local Government has recently released *Comparative Information on NSW Local Government Councils for 2009/2010 (Snapshot of NSW Local Government)*, providing comparative information on the performance of all local councils in NSW across a broad range of activities.

- View the Division of Local Government [circular](#) and the [publication](#)
-

Latest news from the Board

Presentation to the AAC Conference

The Board's President Sue Holliday addressed the recently held annual conference of the Association of Accredited Certifiers (AAC) in Sydney. The conference theme was *Building Confidence through Leadership* and Sue spoke about the Board's role in leadership and building confidence within and outside the certification industry, with particular reference to recent work undertaken by the Board and its future directions. The speech was preceded by a panel that discussed reliance on component certification and included Board Director Neil Cocks.

- [View Sue's presentation](#)

Contract opportunity: Senior Investigator

The Board invites expressions of interest for the role of Senior Investigator for a six month period.

[Find out more](#)

Premises Standards updates

Applications to the Access Advisory Committee

When making an application to the Access Advisory Committee for an assessment of unjustifiable hardship, the Committee requires the following form to be completed and lodged with the application.

- [Considerations under Part 4.1 of the Premises Standards](#)

To avoid delays, please ensure your application is complete before lodging. If you have any concerns, contact the Boards hotline on 1300 001 619.

Applications are to be lodged electronically at access@bpb.nsw.gov.au.

Applications for non-compliance with a requirement of the BCA

As reported in our 10 June issue, the Director-General of the Department of Planning and Infrastructure has delegated his concurrence power under clause 187(7) of the EP&A Regulation to the Chairperson of the Access Advisory Committee in relation to non-compliance with a disability access provision of the Building Code of Australia that corresponds to a requirement of the Premises Standards Access Code, where:

- an application for a construction certificate has been made, and
- the Access Advisory Committee has made a recommendation to the certifying authority to grant an exemption from the requirement of the Access Code.

To apply for concurrence of the Director-General in these circumstances: download the [application form](#).

Meeting dates for the Access Advisory Committee

Remaining meeting dates for 2011 for the Access Advisory Committee to consider applications for assessment of unjustifiable hardship are set out below, along with the final dates for lodging applications for each meeting:

Committee meeting date	Final date for lodgment
2 November 2011	21 October 2011
30 November 2011	18 November 2011

Practice advice

[Australian Building Codes Board handbooks](#)

The ABCB has produced an Information Handbook to raise awareness of the

opportunities to use on-site renewable energy sources and reclaimed energy sources as part of complying with Volume One and Volume Two of the Building Code of Australia. In partnership with the Australian Institute of Architects and industry, the ABCB has also produced a Non-Mandatory Handbook on managing condensation in buildings.

- [Find out more](#)
-

Events

Bond university breakfast briefing

Bond University's Institute of Sustainable Development & Architecture, in conjunction with the Australian Institute of Building Surveyors, will hold its latest breakfast seminar in Parramatta on 12 October, entitled *Certainty for Certifiers - Understanding Qualifications for Building Surveyors*.

The breakfast will cover:

- what is needed to be accredited as building surveyors
- the various levels of accreditation people may qualify for
- the education programs available to help improve levels of accreditation.

[Find out more](#)

Seminar on Access to Premises Standards

NEERG Seminars will be conducting a short course on the application of the Access to Premises Standards on 26 October 2011. The course will include up-to-date information and application of the legislation to recent cases. The course is designed to address concerns about access to buildings and mobility issues that have arisen since the commencement of the Standards on 1 May 2011.

[Find out more](#), including how to register.

Accreditation exam

The accreditation exam will be held at the Boards offices in Parramatta on 18 October 2011. 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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Calling for inspections

The Board was recently asked for advice on a matter in which a principal contractor indicated that they believed that they had, as is their usual practice, telephoned the PCA to give notice that a critical stage inspection was required.

That particular critical stage inspection was not carried out by the PCA. This was not realised until the PCA attended the site to conduct a subsequent critical stage inspection.

Neither the PCA nor the principal contractor kept written records relating to the making of requests for inspections.

The PCA later refused to issue an occupation certificate as the inspection had not been carried out and the circumstances were not unavoidable.

The Board recommends certifying authorities and principal contractors implement procedures to avoid these types of situations. This may include making a request for an inspection in writing, such as by email; making a written record of a phone call and the details of the call in an inspection book or on file; or introducing a numbering system for the recording of inspections.

The Board also recommends the PCA advise the principal contractor of the results of each inspection immediately to allow building work to proceed. This communication should also be recorded in writing.

Dont forget - the purpose of critical stage inspections is to protect the public by ensuring that work proceeds in a satisfactory manner by being inspected at appropriate stages.

New legislation

... introduced to address issues in the Home Building Act

The NSW Government is introducing legislation to stimulate investment and activity in the States home building industry by addressing a number of shortcomings in the *Home Building Act 1989*.

The Home Building Amendment Bill 2011 is a response to issues identified during industry consultation and borne out in recent statistics.

Key amendments put forward in the reform package include:

- aligning the time periods for statutory warranties on home building work with those for home warranty insurance (i.e. six years for structural defects; two years for non-structural defects)
 - raising the monetary threshold at which home warranty insurance is required from \$12,000 to \$20,000
 - raising the threshold above which a written contract for residential building work is required from \$1,000 to \$5,000 and introducing a written quote requirement for work between \$1,001 and \$5000 saving unnecessary paperwork
 - formally opening up Fair Tradings effective dispute resolution process to trader-initiated disputes
 - clarifying the time periods for home warranty insurance to allow for the timely return of builders securities held by insurers
 - halving the excess on home warranty insurance claims
 - increasing the minimum level of home warranty insurance cover from \$300,000 to \$340,000
 - providing a single definition of when work is complete in relation to statutory warranties and home warranty insurance to provide greater clarity and reflect the practicalities of building
 - excluding claims arising from a breach of statutory warranties from the proportionate liability provisions of the *Civil Liability Act 2002*. This means that builders and developers, not subcontractors, are fully responsible for compensating home owners for defective residential building work
 - tightening up the definition of parties related to a builder or developer to prevent abuse of the home warranty insurance scheme and
 - clarifying the definition of developer to close off a loophole that may lead to homeowners missing out on fundamental protections provided under the Act.
-
- View the [media release](#)
-

Practice Advice

Tree removals and CDCs

The Board is aware of recent instances where Complying Development Certificates (CDCs) have been issued prior to relevant permits being issued or approval granted for the removal of trees located on the subject site.

Clause 1.18(1)(h) of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP) requires that in most cases an appropriate permit or development approval be obtained to remove or prune a tree or vegetation from the site prior to the issuing of a CDC.

Instances where a permit or approval is not required include where the tree/s or vegetation are within three metres of the proposed development, less than six metres high and not listed on a significant tree register or register of significant trees kept by Council.

Clause 129B of the EP&A Regulation requires all certifiers to conduct an inspection of the property prior to the issue of a CDC. Clause 129C requires that the certifier make a record of the site inspection and include details of any feature of the site, or of any building on site, that would result in the proposed development that is the subject of CDC application not being complying development or not complying with the Building Code of Australia.

Site inspections are an integral part of the assessment process as they provide the certifier with an appreciation of the property's characteristics as well as any potential constraints that may prevent or delay the issue of a CDC.

Property owners must be advised of their obligations with regards to tree and vegetation removal and that the appropriate approvals must be obtained prior to the issue of a CDC.

Tenure of the PCA

The Board has received a request for clarification regarding the tenure of the Principal Certifying Authority (PCA) under section 109E of the EP&A Act.

Specifically, the Board was requested to advise:

- whether a PCA appointment under section 109E of the Act ceases once an occupation certificate (OC) has been issued and, if so, whether councils are required to give notice to the private accredited certifier appointed as PCA of its intention to give an order under the provisions of section 121H(5) of the Act

- whether a private accredited certifier appointed as PCA can issue a valid notice under S109L of the Act after an OC has been issued.

The EP&Act is silent on the issue of when the tenure of a PCA ends. Section 109E(1)(a) requires a person to appoint a PCA in respect of the building work involved in the development. Building work is defined as any physical activity involved in the erection of a building.

The Act and Regulation impose some post-completion functions on a PCA, such as the obligation to carry out a final inspection after the building work is complete, to receive and determine applications of OCs and to forward a copy of the OC determination to council.

From the above, it is the Boards view that the appointment of the PCA ends once the PCA issues the final OC after building work is complete.

It follows that Council is not required to give notice to the PCA of its intention to give an order in relation to building work or subdivision work, where the PCA has previously issued a final OC for that building or subdivision work.

The Act is also silent on whether a private accredited certifier appointed as a PCA can issue a notice under section 109L of the Act after an OC has been issued. However, as the appointment of the PCA ceases on completion of building work, it is the Boards view that the validity of such a notice issued after a final OC has been issued is questionable.

It is not the intent of the legislation for an accredited certifier to monitor and enforce compliance with conditions of consent in perpetuity. Once a final OC has been issued for a development, a PCA is no longer responsible for ensuring compliance with outstanding conditions of consent.

The Boards April 2007 BPBulletin advised that:

Upon issue of the final occupation certificate for a development, the PCA has no further responsibility for ensuring outstanding conditions of development consent are satisfied. Any outstanding development consent conditions are usually the responsibility of the land owner.

"Where a land owner fails to ensure compliance with the outstanding conditions, council should consider issuing a notice of intention to issue an order requiring work to be undertaken as required by the consent.

Reminders

Applications for a CC and OC

Further to recent queries from councils, the Board reiterates its advice in the September 2010 edition of the BP Bulletin regarding whether an application for an OC can be made at the same time as the application for a construction certificate (CC).

The basis of the requirements of clause 149(2) of the EP&A Regulation (relating to applications for OCs) is to ensure that the certifying authority is provided with the relevant documents sufficient to allow for the determination of the application, including a copy of the relevant CC. Given the requirements contained in clause 149(2), an application for an OC could not be lodged at the same time the application for the CC is made.

Notifying the PCA of Council's enforcement action

The Board has received feedback that some PCAs are only becoming aware of council-issued orders through volunteered information from owners or builders. PCAs have also reported not being informed of other action taken by councils, nor of issues that have been resolved.

Councils are reminded that any enforcement action they take regarding a development for which it is not the PCA should be notified to the PCA, such as by forwarding to the PCA a copy of an order issued. Where an issue has been resolved to the councils satisfaction, the PCA should also be informed. These actions will assist in ensuring the PCA is aware of any issues relating to the development site and the work that is required to be undertaken.

See the info sheet on managing complaints about development sites (link below) for more information.

News and events

NSW Government activity

The NSW Government has recently released the [State Plan, NSW 2021](#) and outlined its latest [NSW State Budget](#).

Work is also ongoing with the NSW Planning review. Around 350 people have attended public forums in the States west, north west, central west and north coast as part of an extensive consultation tour that will visit 40 locations around NSW over nine weeks. [Find out more](#).

Finally, the NSW Government's state significant assessment system began on 1 October. Key documents to allow new applications to be lodged under the system, and substantial background and other information, are available [here](#).

Bush fire safety seminar

The Society of Fire Safety (SFS) NSW Chapter is holding its fifth Technical Information Session of 2011, focusing on bushfire safety.

The seminar will present an overview of current state of technology for building design in bushfire-prone areas and recent advancements in the area of structural and life safety assessments.

It will be held on Wednesday 19 October 2011 at the Engineers Australia auditorium, 8 Thomas Street, Chatswood at 3.30pm for a 4pm start.

- Click [here](#) to register to attend

Free seminars - how to run a building business

Fair Tradings Building Expo and Partners Program seminars help builders and contractors learn more about compliance with regulatory requirements, contractual obligations, dispute resolution, licensing issues, home warranty insurance, green energy solutions, business management, protecting assets, health and safety requirements, and employment entitlements in the building and construction industry.

These free events run for three hours. Licence holders and their business partners can earn Continuing Professional Development points by attending.

NSW Fair Trading staff are joined by representatives from Industrial Relations, WorkCover NSW, Long Service Corporation, Housing Industry Association, Master Builders Association as well as private sector partners specialising in business management advice. The contractors have the opportunity to talk one-on-one with industry experts to obtain practical business advice.

Five more Expos are scheduled to complete the 2011 program with events planned at Newcastle, Dee Why, Merrylands, Wyong and Windsor. You can book online at www.events.fairtrading.nsw.gov.au or phone 13 36 79.

Website updates

The Board has updated its [Managing complaints on development](#) information sheet and information sheet of [certification and accreditation terms](#).

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The Access Advisory Committee

Benefits for certifying authorities

The Boards Access Advisory Committee makes recommendations on applications for exemption from requirements of the Premises Standards on the grounds of unjustifiable hardship.

Committee members have expertise in disability access, quantity surveying, building surveying, structural engineering and heritage conservation.

This model was chosen following consultation as it ensures consistency of recommendations and provides a bank of knowledge and advice to help streamline the processing of future applications.

It was considered to be the most efficient response to allow integration of the Premises Standards into the NSW planning system, while also removing conflicts between the Premises Standards and the EP&A Act, and having minimal impact on the uptake and expansion of complying development.

The committee model also has specific benefits to certifying authorities who choose to use the Access Advisory Committee:

- Liability for complaints of discrimination is reduced.
- Processing times can be reduced, particularly for complex proposals.
- There is a reduced need to modify consents and inconsistencies are removed.
- An expert panel formulates a considered recommendation taking into account all relevant matters.

New members

New members, representing the Heritage Council and Engineers Australia, have been added to the Committee. These members are:

- Mr Eric Martin, Heritage Council
- Mr Peter Phillips, Heritage Council
- Mr Donald Truman, Heritage Council
- Dr John Hutcheson, Engineers Australia
- Mr Geoff Gleeson, Engineers Australia

[Find out more](#) about the Access Advisory Committee.

Reminders and updates

Misrepresentations in applications for accreditation

The Board recently investigated applications for accreditation by council building surveyors and found some applicants did not have the experience they claimed in their applications.

In light of these investigations, the Board reminds Councils of their obligations relating to the accreditation of Council officers who conduct building certification work.

In their initial application, a Council officer must demonstrate either a qualification in building surveying or a related discipline, or a certain number of years of experience in carrying out relevant building certification work, or experience in gaining skills that are transferable to the carrying out of that work, or both a qualification and experience, depending on the category of accreditation sought.

When assessing an application and formulating its recommendation for accreditation, Councils must take into account:

- the requirements of the Boards [Accreditation Scheme](#)
- any assessment guidelines for the making of a recommendation issued by the Board and in force at the time the application is made
- the applicant's qualifications
- the experience of the applicant as known to the council and as documented by the applicant and, in particular, the type of certification work undertaken by the applicant as indicated on the application
- whether the council is of the opinion the applicant is a fit and proper person.

If Council supports the application, it is to endorse the application form and submit it to the Board for determination. The Board assesses the application against the requirements of the accreditation scheme and any requirements of the EP&A Act and EP&A Regulation.

Applications that contain false claims or misrepresentations concerning qualifications and experience, or any other matter, may be the subject of further investigation by the Board, and could result in the cancellation of the certifiers accreditation.

- [View further information](#) concerning Council accredited certifiers and Councils obligations

Conditions of development consents

A recent Administrative Decisions Tribunal decision in relation to an appeal against a Board disciplinary action highlights the need for local councils to formulate clear and unambiguous development consent conditions.

In upholding the appeal, the Tribunal determined that certain requirements in the development consent for information to be provided and for work to be done, did not clearly link to the issue of any one construction certificate (multiple construction certificates were issued) and were therefore not the responsibility of the certifying authority to finalise at a particular point in time.

- [View the decision](#)

Pre-certificate site inspections

The Board was recently contacted by a Council as to whether a certifying authority must physically conduct a site inspection before issuing a construction or complying development certificate.

The EP&A Regulation requires a certifying authority, before issuing a complying development certificate, to carry out an inspection of the site of the development, and, before issuing a construction certificate for development on a site which affects an existing building, an inspection of the building (clauses 129B and 143B, respectively).

Such an inspection calls for the certifying authority to physically visit the site so as to consider such matters as whether the property accords with the submitted plans, whether any proposed building location accords with the submitted plans, whether the property contains the site features as depicted in the submitted plans, whether any existing buildings accord with the submitted plans and whether the proposed work accords with the identified site conditions.

It is not possible for a certifying authority to discharge the requirements of clauses 129B and 143B unless the certifying authority, a council or another accredited certifier as arranged by the certifying authority (or the consent authority in the case of a construction certificate), has actually attended the site.

Home Building Amendment Act 2011

As mentioned in the last edition of the BPBulletin, the NSW Government was looking at legislative reforms to the *Home Building Act 1989*. This package of reforms passed Parliament on 19 October 2011.

The *Home Building Amendment Act 2011* includes changes to home warranty insurance, statutory warranty and contract requirements. These reforms apply to all residential building work covered by home warranty insurance but do not apply to claims that have already been made (whether finalised or not), or to legal proceedings underway or finalised.

The changes will commence in two stages, the first took effect on 25 October 2011, while second will begin on 1 February 2012.

- [View the website](#) for details on the two stages of changes.
-

Plumbing Advisory Council

The NSW Government will establish a Plumbing Advisory Council to advise on industry regulation, including the Plumbing and Drainage Bill 2011. The Plumbing Advisory Council will advise the Minister and NSW Fair Trading on important issues relating to plumbing regulation in NSW.

- [Find out more](#)
-

Accreditation status granted for 2012

UWS Graduate Diploma in Building Surveying and Master of Building Surveying courses

The Building Professionals Board recently resolved to continue to recognise the University of Western Sydney's (UWS) building surveying qualifications (the Master of Building Surveying and Graduate Diploma Building Surveying). This qualification is currently recognised in Schedule 3 Part 2 of the Boards [Accreditation Scheme](#).

The Boards decision means students who commence these courses in 2012 will, upon graduation, be able to rely upon the qualification as meeting the Board's qualification requirements for accreditation in Categories A1, A2, A3 and A4.

The Board is actively meeting and talking with universities to encourage and promote the development of undergraduate and post graduate building surveying degrees in NSW.

Model Code of Conduct for Local Councils review

The Department of Premier and Cabinet (Local Government) has issued a circular regarding the ongoing review of the current Model Code of Conduct for Local Councils.

The Division of Local Government commenced the review process earlier this year, issuing a discussion paper in June 2011 that outlined issues raised about the operation of the current version of the Model Code. The discussion paper elicited over 120 submissions.

A reform proposal has now been prepared with respect to the Model Code and the relevant provisions of the *Local Government Act 1993*. The Division now seeks stakeholders' views in relation to the reform proposal.

[Read the Circular](#)[Read the position paper](#).

Events

Women in industry conference

The Women in Industry conference, hosted by the Construction and Property Services Industry Skills Council (CPSISC), will be held next month. The conference focuses on skills and training development for women in construction, forestry, mining and energy industries.

- [Find out more](#)
-

Website updates

Disciplinary Register

The Boards [Disciplinary Register](#) has been updated to remove older decisions, add former decisions based on subsequent rulings from the

Administrative Decisions Tribunal, and add new decisions from July and August 2011.

New Premises Standards forms

[New forms](#), as included in the last edition of the BPBulletin, have now been added to the Boards website. These will soon be incorporated into an updated version of the Application for an unjustifiable hardship exemption.

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Planning Review submission

The Board has made a submission to the NSW Planning Review, covering issues such as the regulation and scope of the NSW certification system; recommendations on how to improve the efficiency of complying development, Part 4A certificates, component certificates and development consents; the role of certifying authorities; critical stage inspections; and other issues with building and subdivision work.

The Planning Review will now consider all submissions and release an Issues Paper in early December, as the outcome of the first listening & scoping phase of the NSW Planning System Review.

The Issues Paper is a preliminary phase of the Planning Review only. Additional detailed feedback and comment on the Issues Paper will commence in mid-December and continue until 17 February 2012.

- [View the Boards submission](#)
- [View all submissions](#)

Summary of Complaints and Investigation

The Board has released its fourth edition of the Summary of complaints and investigations.

The Summary describes case studies of complaints made about the conduct of accredited certifiers. These case studies can assist and educate stakeholders involved in the certification process.

- [View the Summary](#)

Practice advice

The Board has translated a number of its BPBulletin articles into practice advice for easy reference.

- [11/005 Tenure of the principal certifying authority](#).
- [11/006 Complying development site inspections](#)

Section 94 contributions

Accredited certifiers are reminded of their obligations under s94EC of the EP&A Act to attach conditions to complying development certificates (CDCs) requiring applicable section 94 or section 94A contributions to be paid to the relevant council.

Parramatta City Council has recently contacted the Board about this issue to ensure certifiers consider the Parramatta City Centre Civic Improvement Plan (Amendment No 1) and the Parramatta City Council Section 94A Contributions Plan (Amendment No 1) when issuing CDCs. The first plan applies to the city centre while the second applies to all land within Parramatta LGA except the city centre.

The plans may be accessed from council's [website](#).

DP&I news

Electronic Housing Code

The Electronic Housing Code is an online tool that will revolutionise the housing approval process.

The Electronic Housing Code was recently launched in Kellyville in Sydney's North West, where the first home to be approved via the electronic system was approved in just three days.

The Electronic Housing Code is operational in Bankstown, Blacktown, Lake Macquarie, Port Macquarie, Rockdale, Shellharbour, Sutherland, Tamworth, The Hills and Tweed councils, following a \$5.92 million contribution from the Australian Government's Housing Affordability Fund.

- [Find out more](#)

Codes SEPP: Discussion paper

The NSW Department of Planning and Infrastructure is inviting public comment on the Housekeeping amendment to the Codes SEPP Discussion Paper.

These matters have been raised in feedback from councils, certifiers and the community since the last amendment to the Codes SEPP in February 2011. The department is seeking public comment on these proposed changes.

- [View the Discussion Paper](#)
- [Find out more](#)

Events & news

ABCB chair

Former Victorian Deputy Premier the Hon John Thwaites has been appointed as chair of the Australian Building Codes Board (ABCB).

- [Find out more](#)
- [Visit the ABCBs website](#)

AAC Seminar

The Association of Accredited Certifiers (AAC) will hold a seminar on BASIX, and timber frames and trusses, on Wednesday 23 Nov 2011 from 3:00pm to 6:00pm at the Parramatta RSL.

The seminar will cover the checking of BASIX certificates, inspection problems, any tips and tricks that will help accredited certifiers carry out their jobs and any other relevant information that certifiers should be aware of.

It will also cover what to look for to ensure good performance of frames and trusses, including truss orientation, condition and placement, the required connections of frames and trusses to supporting elements and correct bracket installation.

- [Register online](#)

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Case study

Variety and learning in Moree

This week, the Building Professionals Board spoke to Moree Plains Shire Council, where two young indigenous officers are working as part of Council's assessment team.

Both officers - Dwayne Singh and Kevin Dennison - are exposed to a huge variety of certification work through their work with a regional council.

- [Read the case study.](#)



Reminders and updates

Appointment of a PCA

Following consultation with a regional council, the Board confirms that the requirements of section 109E(1)(a) of the EP&A Act explicitly state that the appointment of a Principal Certifying Authority (PCA) can be made only by the person with the benefit of the development consent or complying development certificate (CDC).

The practice of some certifying authorities to require or encourage the appointment of the PCA at the time of submitting an application for a development consent or CDC is inconsistent with this requirement. Such

appointment is not only premature (as no individual yet has the benefit of the development consent or CDC), but could be perceived as incentivising the applicant to choose a PCA option that may assist the assessment process.

Component certificates and industry advice

The Master Builders Association of NSW (MBA) provided advice to members, in its October/November 2011 Executive Newsbrief, in relation to certifiers and component certificates.

The MBA article referred to the Association of Accredited Certifiers Member Guideline (August 2011) that advises AAC members to ensure the person providing a component certificate is suitably qualified, has appropriate experience, is a member of an appropriate industry association where applicable and is suitably insured.

The MBA article indicated that professional indemnity (PI) insurance is not available to builders and trade contractors.

The Board fully supports and commends the objectives of industry bodies in providing advice to its members on the content of component certificates. It is the Board's position that while certifiers may have to rely on certificates from persons who may not be accredited/licensed or insured, wherever possible certifiers should seek compliance certificates, or component certificates from insured persons.

The Board is mindful that this situation impacts on the liability of accredited certifiers, who may be the only person or body insured, and that home warranty insurance held by builders is limited.

In response, the Board is drafting a discussion paper which, among other things, includes options for addressing the number of insured practitioners including:

- accrediting more certifiers to issue mandatory certification on the design and installation of critical building elements
- introducing home warranty insurance for buildings greater than three storeys
- requiring home warranty-style insurance for accredited certifiers instead of professional indemnity insurance.

The Board is also currently developing template certificates that certifying authorities can require tradespeople to use.

- [See Practice Advice](#)

Premises Standards - end of year arrangements

As per the 30 September 2011 edition of the BPBulletin, the final meeting date for the year for the Access Advisory Committee to consider applications for assessment of unjustifiable hardship is 30 November (the final date for lodgment for this meeting was 18 November).

The Board will be closed from 12pm Friday 23 December 2011 until Friday 5 January 2012 inclusive. This means all Premises Standards hotline calls and emails will not be answered during this time. Normal business will resume when the Board reopens on Monday 9 January 2012.

The first meeting of the Access Advisory Committee in 2012 will be Wednesday 8 February 2012. The final date for lodgment of complete applications for this meeting will be 25 January 2012.

Further detailed information on the implementation of the Commonwealths Premises Standards in NSW will be available by a special edition BPBulletin next week.

Access consulting training package

The Construction and Property Services Industry Skills Council (CPSISC) is furthering a project for the development of a training and recognition pathway for access consultants to meet the requirements of the Premises Standards.

The qualification will allow people with other relevant qualifications and experience, such as architects, building surveyors and builders to acquire specialist skills in access consulting.

The second round of draft units of competency for the development of a Vocational Graduate Diploma of Access Consulting is now available for comment until 9 December 2011.

- Visit the [CPSISC website](#) to provide feedback.

Swimming pool safety campaign

The Division of Local Government, Department of Premier and Cabinet is again seeking the cooperation of all NSW councils in undertaking a state-wide swimming pool safety education campaign as part of the 2011/2012 swimming season.

Section 5 of the *Swimming Pools Act 1992* requires councils to promote awareness within their local government areas of the requirements of the legislation in relation to swimming pools, and, most importantly, to emphasise that while fencing may assist in reducing drownings in backyard pools, the most effective way to prevent drowning or near-drowning is for children to be adequately supervised by a parent or other responsible adult.

- [View more information](#)
-

Exhibitions and feedback

Discussion paper: SEPP 65 and Residential Flat Code

The Discussion Paper for the review of SEPP 65 and the Residential Flat Design Code was publicly released on 16 November.

The paper is on exhibition until 24 February 2012.

A series of information sessions on the discussion paper is being held across NSW in November and December 2011.

These sessions will allow local government, industry, practitioners and community members to learn about the content of the paper and ask questions of department staff and will be advertised through targeted invitations and newspaper advertisements.

- [View the paper and find out more](#)

NABERS rating tools

The Australian Institute of Refrigeration Air Conditioning and Heating (AIRAH) is conducting an independent technical review and report of the NABERS rating tools on behalf of the NABERS stakeholders' advisory committee.

An online survey is open to gather industry issues which should only take five to ten minutes to complete. Comments are welcome until COB Wednesday 14 December 2011.

If you have any questions please contact Phil Wilkinson CEO, AIRAH by [email](#).

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

Legislation

Plumbing and Draining Bill 2011

The Plumbing and Draining Bill 2011 received assent on 16 November.

- [View more information](#)

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NSW Planning System Review

Issues paper released

Minister for Planning and Infrastructure Brad Hazzard has released an [issues paper](#), compiled by the Planning System Review panel co-chairs, Tim Moore and Ron Dyer.

The issues paper outlines the key themes and questions raised during the consultation undertaken since early August, which included 91 community forums attended by nearly 2,000 people, more than 70 stakeholder meetings and over 330 written submissions received.

Further feedback is being sought on the key themes, to help guide the development of policy options which will be released in 2012.

Comments and submissions on the issues paper can be lodged until 17 February 2012 via the [website](#).

Summary of complaints & investigations

Audit special 2011

During 2011, the Board conducted audits of a number of private certifiers and councils in their certifying authority function.

These proactive audits demonstrate where good practices are occurring, identify where further support is needed for certifiers and direct the Boards

advice to certifying authorities on legislative provisions and professional practice.

The 2011 audit special of the Summary of complaints and investigations sets out the findings of some of the audits conducted.

- [Read the Summary.](#)
-

University of Newcastle: update

The Board has produced an information sheet following recent changes to the accreditation status of the University of Newcastle's Bachelor of Construction Management.

- [View the information sheet](#)
-

Legislation update

Extension to the review of the BP Act

The [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2011 No 62](#) extends the review period of the *Building Professionals Act 2005* (BP Act) by two years.

The BP Act review will consider whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. It commenced in December 2010.

Previously a report was required to have been submitted to Parliament this month on this review; however, the statutory review period has been extended by two years and the review must now be completed by 7 December 2013.

The extension means the review period of the BP Act will align with that of the NSW Planning System Review.

Extension of Codes SEPP transition period

The Department of Planning and Infrastructure has released a planning circular to notify councils, accredited certifiers and the community of the commencement of an amendment to the Codes SEPP, which extends the transition period for the operation of local complying development controls.

- View the [circular](#)
-

Local government circulars

Destination 2036

The Division of Local Government within the Department of Premier and Cabinet has released the [draft Destination 2036 Action Plan](#) for stakeholder consultation.

Council staff are encouraged to review and consider this important draft plan.

- [Read the circular](#)

Localising NSW 2021

The Division of Local Government has also released a circular outlining details of Regional Action Plans that will be developed to localise [NSW 2021 - A plan to make NSW number one](#).

- [Read the circular](#)
-

Website update: Disciplinary Register

The Board has updated the Disciplinary Register on its website to take into account decisions made in Disciplinary Committee meetings in September and October 2011.

View the [register](#)

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Message from the Board President

It has been another interesting year for the certification system in NSW a change in Government, the commencement of the NSW Planning System Review, and several disciplinary matters that have highlighted some of the issues impacting the profession.

In 2012, were going to work with our colleagues across industry to address some of these issues and bolster the current system to help improve safety, professionalism and efficiency.

You will have already seen the Boards position on a number of matters outlined in our [response to the NSW Planning System Review](#), and well continue to have input into this important process.

As part of that, were going to embark on direct consultation sessions in metropolitan and regional areas next February and March to get your thoughts on an expanded building certification system, and how we might improve the building and certification system for practitioners, authorities and consumers.

For example:

- We want to kick off discussion on which additional building components should be subject to mandatory certification - should mechanical services, fire protection services, energy efficiency, electrical services, hydraulic services, accessibility, building location and the built form be included?
- We want your thoughts on the types of certificates, reports or specifications that should be accepted by PCAs and how certifying authorities can be protected from liability when relying in good faith on a component certificate provided by a suitably qualified person.

- We will analyse insurance requirements for accredited certifiers and other practitioners so as to provide better protection for the community.
- We want to look at new categories of accreditation - should practitioners from fields such as access consulting, fire protection services, high-rise residential/commercial building and building design be accredited by the Board and, if so, what functions should they be accredited to undertake?

This consultation will also canvass the arrangements for council accredited certifiers after changes to the Accreditation Scheme in March 2013.

You will have seen the special edition BPBulletin that was distributed last Friday on the consultation, and weve now set up a [dedicated page](#) of the Boards website which will include all updates on the consultation. Well make all announcements via our regular BPBulletins, so if your colleagues arent already subscribed, please use the links below to forward on to them.

Many thanks again to all of you for your support during 2011, especially all our committee and TRG members. I wish you all the best for the holidays and a happy and healthy 2012.

Sue Holliday
President, Building Professionals Board



Update on Board activities

The Board's complaints investigations: ready for 2012

The Board has been reviewing its complaints investigation process to remove inefficiencies and to minimise the number of outstanding complaints.

In 2011, the Boards Investigations Units were restructured, which means the Board now has two teams with separate responsibilities for audit and complaints functions.

The complaints process has also been reengineered to include:

- an upfront process where new complaints are examined and categorised early
- direct telephone contact with certifiers to encourage early responses and to undertake informal mediation, where possible
- a streamlined categorisation of complaints into informal, termination under delegated authority, for investigation and for PIN (Penalty Infringement Notice) allowing investigators to concentrate on major complaint investigations.

The new approach has already been successful: investigators are actively reducing the number of outstanding complaints and potential complaints by providing advice and informally mediating potential complaints coming through the Boards enquiry line.

The Board is also considering a PIN process to deal with minor breaches of legislation that should not be dealt with under section 23 of the BP Act. This will be announced through the BP Bulletin once live.

Board advisory reviews

The Board will be conducting advisory reviews of a number of regional councils and selected accredited certifiers from early in the new year.

The advisory review process focuses on education and the promotion of standards (it is not an investigation under sections 45 or 46 of the BP Act). As part of all reviews, Board staff complete a checklist against selected projects and provide feedback to stakeholders.

Reviews also provide an opportunity to discuss any issues or questions that Council staff or certifiers may have in relation to the legislative requirements or the certification system generally.

The Board has received very positive feedback about the Advisory Reviews undertaken to date and will continue to publicise lessons learnt through BP Bulletin articles.

Accreditation Scheme amendments

Amendments to the Boards [Accreditation Scheme](#) that commenced last week allow private and council certifiers who have not lodged a renewal before the expiration of their certificate to apply for accreditation within three months of the expiry of their past certificate. Certifiers will be granted a renewal of accreditation in this case where all renewal requirements have been met.

Remember: certifiers who lodge a renewal application after their accreditation has expired will have a gap in their accreditation and cannot undertake certification work until their accreditation is renewed.

Practice advice

Intepreting the Codes SEPP

The Boards Disciplinary Committee has found certifying authorities are using too much discretion when interpreting State Environmental Planning Policy (Exempt and Complying Development Codes) 2010 (the Codes SEPP).

The Board recommends against certifying authorities making assumptions about elements of the Codes SEPP. Rather, certifying authorities should seek advice or clarification from either the relevant council, or the [Department of Planning & Infrastructure](#), and document the advice given.

With the number of complaints about the issue increasing, the Committee believes taking and recording advice will ensure a more consistent approach to interpreting the Codes SEPP and will help to reduce the number of complaints against certifiers.

New fire safety charges

Following a 2008 update to the Fire Brigades Regulation (FB Regulation), Fire & Rescue NSW has commenced charging for services, under clause 54(5) performed in connection with statutory fire safety:

- The review of Fire Engineering Reports and furnishing of Initial Fire Safety Reports
- Inspections and the furnishing of Final Fire Safety Reports
- Fire safety meetings in connection with a development or proposed development.

Further, charges will commence from 1 January 2012 for the provision of advisory, assessment or consultancy services not already captured as part of the above charges in respect of:

- Major infrastructure development (within the meaning of Part 3A of the EP&A Act)
- Crown Building work (within the meaning of section 109R of the EP&A Act)
- Other development (including designated development, integrated development etc. and other development not otherwise listed above).
- Any other meetings relating to fire safety matters as permitted under the FB Regulation.

The amount of \$2,600 (plus GST) is the charge prescribed for each day (or part of a day) taken by the Commissioner or a FRNSW member in providing such advisory, assessment or consultancy services.

Submissions for advisory, assessment or consultancy services should be accompanied by the appropriate [FRNSW application form](#).

New practice advice

The Board has released a new practice advice regarding specifying suitably qualified professionals in subdivision plans and consents

- [View the practice advice](#)
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Have your say on strata and community laws

The New South Wales Government will commence a comprehensive review of NSW strata and community title laws from mid 2012.

Anyone interested in making comments, raising specific issues or suggesting possible solutions can participate in an online consultation hosted by public policy think tank Global Access Partners. The online forum is open until 29 February 2012.

- [Find out more](#)
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'Kids can't fly' campaign

The Childrens Hospital at Westmead has produced a range of educational resources, titled Kids Cant Fly, after over 200 children were admitted to the hospital as a result of a window or balcony fall between January 1998 to 8 November 2011.

These free resources may be downloaded via the [Kids Health website](#).

Christmas closedown

The Board will be closed from midday on Friday 23 December, opening again on 9 January 2012. The next BPBulletin will be delivered in mid-January.

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Important Note

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

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