Building Professionals Regulation 2006

under the

Building Professionals Act 2005

Minister for Planning

Explanatory note

The objects of this Regulation are:

(a) to set out the categories of certificates of accreditation that the Building Professionals Board can issue to accredited certifiers under the Building Professionals Act 2005 (the Act) and the authority conferred by each category of accreditation, and

(b) to enable the accreditation scheme prepared by the Board under the Act to make provision with respect to the method of assessing whether a person possesses the qualifications, skills, knowledge and experience required for each category of accreditation, and

(c) to prescribe the records and documents that accredited certifiers must keep for the purposes of section 60 of the Act, and

(d) to prescribe the type of insurance required in relation to an accredited certifier for the purposes of section 63 of the Act, and

(e) to specify circumstances in which an accredited certifier is taken, or not taken, to be involved in the preparation of the plans or specifications for an aspect of development for the purposes of the conflict of interest provisions in Division 3 of Part 6 of the Act, and

(f) to prescribe the fees payable to the Board for applications for accreditation or renewal of accreditation and in respect of other matters under the Act, and

(g) to specify the offences against the Act in respect of which a penalty notice (on the spot fine) may be issued and the amounts of penalty for those offences when dealt with in that way, and

(h) to prescribe other minor matters and matters of a machinery or transitional nature.

This Regulation is made under the Building Professionals Act 2005, including section 94 (the general regulation-making power) and sections 4 (2) (d), 5 (2) (b), 6 (2), 60, 63, 65, 67 and 92 and clause 1 of Schedule 2.
Public consultation draft

Building Professionals Regulation 2006

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Building Professionals Regulation 2006

under the

Building Professionals Act 2005

Part 1 Preliminary

1 Name of Regulation

This Regulation is the Building Professionals Regulation 2006.

2 Commencement

This Regulation commences on [date to be inserted].

3 Definitions

(1) In this Regulation:

alternative solution has the same meaning as in the Building Code of Australia.

Building Code of Australia or BCA has the same meaning as Building Code of Australia has in the Environmental Planning and Assessment Act 1979.

category of accreditation means a category of accreditation set out in Column 1 of the Table in Part 1 of Schedule 1.

the Act means the Building Professionals Act 2005.

(2) Terms used in this Regulation that are defined in the Environmental Planning and Assessment Act 1979 have the same meanings as they have in that Act.

(3) Notes included in this Regulation (other than Schedule 1) do not form part of this Regulation.
Part 2 Accreditation of certifiers

4 Categories of certificates of accreditation

(1) The categories of certificates of accreditation that may be issued by the Board are set out in Column 1 of the Table in Part 1 of Schedule 1.

(2) A certificate of accreditation of a category set out in Column 1 of the Table in Part 1 of Schedule 1 authorises the holder to do anything set out in Column 2 of that Table opposite the category of certificate of accreditation.

5 Additional matters that may be included in accreditation scheme: section 4 (2) (d) of the Act

An accreditation scheme may make provision for or with respect to the method of assessing whether a person possesses the qualifications, skills, knowledge and experience required for the issue of a certificate of accreditation for each category of accreditation.

6 Applications for renewal of accreditation: section 10 (2) of the Act

An application for renewal of a certificate of accreditation is to be made by lodging, before the expiration of the certificate:

(a) the form approved by the Board for the application, and

(b) the fee prescribed under section 5 (2) of the Act for the application, and

(c) any documents and information required under that subsection to accompany the application.

7 Prescribed conditions of certificates of accreditation

It is a condition of every certificate of accreditation that the holder of the certificate must surrender it to the Board within 14 days after receiving written notice from the Board that the conditions of the certificate have been varied or new conditions have been imposed on the certificate.

Note. A contravention of, or failure to comply with, a condition of a certificate of accreditation is an offence under section 73 of the Act.
Part 3  Record keeping

8  Record keeping by accredited certifiers

(1) For the purposes of section 60 (1) of the Act, an accredited certifier must cause copies of the following to be kept at his or her business premises, or in another secure place, at all times:

(a) any application for a certificate that has been made to the accredited certifier under the Environmental Planning and Assessment Act 1979,
(b) any written determination that has been made by the accredited certifier in relation to an application for a certificate under the Environmental Planning and Assessment Act 1979,
(c) any certificate or other document that the accredited certifier has relied on for the purpose of issuing a certificate under the Environmental Planning and Assessment Act 1979,
(d) any certificate issued by the accredited certifier under the Environmental Planning and Assessment Act 1979,
(e) any plans and specifications in respect of which the accredited certifier has issued a certificate under the Environmental Planning and Assessment Act 1979,
(f) for each year to which the accredited certifier’s certificate of accreditation relates, a list of the projects in connection with which the accredited certifier has issued Part 4A certificates or complying development certificates,
(g) for each of those projects, records of the following:
   (i) the types of certificates issued,
   (ii) the classification of the building involved,
   (iii) the name of the local government area in which the project is located,
   (iv) except in the case of a subdivision certificate, the estimated cost of the project,
   (v) in the case of a subdivision certificate, the number of lots that will be created by the subdivision,
   (vi) the name of the applicant for the certificate,
   (vii) the owner of the land or premises concerned,
   (viii) the name of the principal contractor,
(h) any record required to be made by the accredited certifier under clause 162B (1) of the Environmental Planning and Assessment Regulation 2000 of an inspection,
(i) any record required to be made by the accredited certifier under clause 162C (2) (c) of the Environmental Planning and Assessment Regulation 2000 of a missed inspection,

(j) if the accredited certifier is a principal certifying authority, any record of inspection provided to the accredited certifier by another certifying authority under clause 162B (2) of the Environmental Planning and Assessment Regulation 2000,

(k) if the accredited certifier was previously accredited under the Environmental Planning and Assessment Act 1979, the documents that the accredited certifier was required to keep while accredited under that Act.

(2) This clause does not require an accredited certifier to keep copies of:

(a) any certificate, or of any ancillary application, determination, plan, specification or other document for more than 10 years after the date on which the certificate was issued, or

(b) a record of an inspection or missed inspection for more than 10 years after the time the inspection was conducted or missed, or

(c) any list of projects (together with details of those projects) for more than 10 years after the list was required to be prepared.
Part 4 Insurance

Division 1 Preliminary

9 Definitions

In this Part:

associate has the same meaning as it has in the Corporations Act 2001 of the Commonwealth.

company contract means a professional indemnity contract issued to a company.

expiry date, for a professional indemnity contract, means the date specified in the contract as the contract’s expiry date.

individual contract means a professional indemnity contract issued to an individual.

partnership contract means a professional indemnity contract issued to a partnership.

person covered by the contract, in relation to a company contract or partnership contract, means an accredited certifier to whom the indemnity provided by the contract extends.

professional indemnity contract means an insurance contract that indemnifies an individual, a company or a partnership against an accredited certifier’s statutory liability and that complies with the provisions of this Part.

statutory liability means a person’s liability to pay compensatory damages for breach of professional duty as an accredited certifier arising from any of the following occurring while the person is acting in the capacity of an accredited certifier, whether as an individual, as a director or employee of a company or as a partner or employee of a partnership:

(a) any act or omission of the person,

(b) any conduct of the person that would constitute a breach of any of the following provisions or a breach of warranty implied by any of the following provisions:

(i) section 52, 53, 53A or 74 of the Trade Practices Act 1974 of the Commonwealth, or

(ii) any provision of the legislation of this or any other State or Territory that corresponds to a section referred to in subparagraph (i).
Division 2  Professional indemnity contracts

10 Required insurance: section 63 of the Act

For the purposes of section 63 (2) of the Act:
(a) an insurance contract that an accredited certifier is required to be indemnified by is a professional indemnity contract, and
(b) the liability against which an accredited certifier is required to be indemnified by such a contract is the accredited certifier’s statutory liability for the whole of the period during which he or she has been an accredited certifier.

11 Individual contracts

(1) A professional indemnity contract may provide indemnity to an individual accredited certifier.
(2) The indemnity provided by an individual contract must extend to all acts and omissions of the person covered by the contract that have occurred at any time since the insured first became an accredited certifier.
(3) The indemnity provided by an individual contract may be limited to those acts and omissions in respect of which a claim is made against the insured, and notified to the insurer, before the contract’s expiry date.
(4) Nothing in this clause requires an individual contract to provide indemnity for acts or omissions that occur after the contract’s expiry date.
(5) The requirements of this clause are subject to the exceptions and exclusions allowed by the other provisions of this Part.

12 Company contracts

(1) A professional indemnity contract may provide indemnity to a company, including such of the directors or employees of the company as are accredited certifiers.
(2) The indemnity provided by a company contract must extend to:
(a) all persons who, at any time during the term of the contract, are or become:
   (i) accredited certifiers, and
   (ii) directors or employees of the company,
whether or not they cease to be accredited certifiers, or cease to be directors or employees of the company, during the term of the contract, and
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Part 4  Insurance

(b) all persons who, at any time before the beginning of the term of the contract, had been:
   (i) accredited certifiers, and
   (ii) directors or employees of the company,
         but who had ceased to be accredited certifiers, or had ceased to be directors or employees of the company, before the beginning of that term.

(3) The indemnity provided by a company contract must extend to all acts and omissions of the persons covered by the contract that have occurred, while those persons were directors or employees of the company, in the course of work carried out on behalf of the company.

Note. A company contract does not cover an accredited certifier for any period before he or she became a director or employee of the company. Consequently the person will need to obtain separate indemnity for that period in order to comply with the requirements of section 63 of the Act.

(4) The indemnity provided by a company contract may be limited to those acts and omissions in respect of which a claim is made against the insured, and notified to the insurer, before the contract’s expiry date.

(5) Nothing in this clause requires a company contract to provide indemnity for acts or omissions that occur after the contract’s expiry date.

(6) The requirements of this clause are subject to the exceptions and exclusions allowed by the other provisions of this Part.

13  Partnership contracts

(1) A professional indemnity contract may provide indemnity to a partnership, including such of the partners or employees of the partnership as are accredited certifiers.

(2) The indemnity provided by a partnership contract must extend to:
   (a) all persons who, at any time during the term of the contract, are or become:
      (i) accredited certifiers, and
      (ii) partners or employees of the partnership,
           whether or not they cease to be accredited certifiers, or cease to be partners or employees of the partnership, during the term of the contract, and
   (b) all persons who, at any time before the beginning of the term of the contract, had been:
      (i) accredited certifiers, and
      (ii) partners or employees of the partnership,
but who had ceased to be accredited certifiers, or had ceased to
be partners or employees of the partnership, before the beginning
of that term.

3. The indemnity provided by a partnership contract must extend to all acts
and omissions of the persons covered by the contract that have occurred,
since those persons first became partners or employees of the
partnership, in the course of work carried out on behalf of the
partnership.

Note. A partnership contract does not cover an accredited certifier for any
period before he or she became a partner or employee of the partnership.
Consequently the person will need to obtain separate indemnity for that period
in order to comply with the requirements of section 63 of the Act.

4. The indemnity provided by a partnership contract may be limited to
those acts and omissions in respect of which a claim is made against the
insured, and notified to the insurer, before the contract’s expiry date.

5. Nothing in this clause requires a partnership contract to provide
indemnity for acts or omissions that occur after the contract’s expiry
date.

6. The requirements of this clause are subject to the exceptions and
exclusions allowed by the other provisions of this Part.

14 Limit of indemnity as to compensation

1. A professional indemnity contract may limit the indemnity provided to
an insured (being an individual) in respect of any one claim to an
amount of not less than $1,000,000, subject to an overall limit of not less
than $2,000,000 in respect of all claims made in any one year against
the insured in relation to any liability covered by the contract.

2. Subclause (1) applies to an insured that is a company in the same way
that it applies to an insured who is an individual except, that the
monetary amounts specified in that subclause are to be multiplied by:

(a) the number of accredited certifiers who are directors or
employees of the company as at the date on which the contract is
issued, or

(b) if the contract is the fourth or subsequent contract issued to the
company, whether by the same or by another insurer, the average
number of accredited certifiers who have been directors or
employees of the company during the previous 3 years.

3. Subclause (1) applies to an insured that is a partnership in the same way
that it applies to an insured who is an individual, except that the
monetary amounts specified in that subclause are to be multiplied by:

(a) the number of accredited certifiers who are partners or employees
of the partnership as at the date on which the contract is issued, or
Clause 15 Building Professionals Regulation 2006
Part 4 Insurance

(b) if the contract is the fourth or subsequent contract issued to the partnership, whether by the same or by another insurer, the average number of accredited certifiers who have been partners or employees of the partnership during the previous 3 years.

(4) Nothing in subclause (2) or (3) requires the indemnity provided by a professional indemnity contract, with respect to all claims made against a company or partnership in any one year in relation to any liability covered by the contract, to be for an amount greater than $20,000,000 in total.

(5) The minimum amount of indemnity required by subclauses (1), (2) and (3) is not to include any amount in respect of the following expenses incurred by or on behalf of the insured:
   (a) the expenses of the investigation of a claim,
   (b) the legal expenses of defending a claim.

Division 3 Exceptions and exclusions

15 Buildings for which no occupation certificate issued
A professional indemnity contract may provide that the indemnity provided by the contract does not apply to any claim made against the insured in relation to building work in respect of which no occupation certificate has been issued unless the claim is made against the insured, and notified to the insurer, before the expiration of 10 years from:
   (a) the last date on which the building work was inspected by a certifying authority, or
   (b) if no such inspection has been conducted, the date on which that part of the building in relation to which the building work was carried out is first occupied or used.

Note. Section 109M (2) of the Environmental Planning and Assessment Act 1979 provides that, in certain circumstances, a building in respect of which building work has been carried out may be occupied and used without an occupation certificate having been issued in relation to that work. In these circumstances, section 109ZK of that Act does not bar the taking of legal action in relation to that work in the way it bars the taking of legal action in relation to other building work.

16 Other exceptions and exclusions
Nothing in this Part prevents a professional indemnity contract from containing exceptions and exclusions so long as the exceptions or exclusions are not inconsistent with the requirements for such contracts contained in this Part.
Conflicts of interest

Part 5 Conflicts of interest

17 Prescribed circumstances in which accredited certifier taken to be involved in design of aspect of development

For the purposes of section 67 (1) (b) of the Act, the following circumstances are prescribed as circumstances in which an accredited certifier is taken to be involved in the design of an aspect of development:

(a) if the accredited certifier provides advice on how to amend plans and specifications relating to the aspect of development so that they will comply with applicable legislative requirements (including applicable requirements of the Building Code of Australia),

(b) if the accredited certifier proposes design options for the aspect of development, including alternative solutions for compliance with the applicable requirements of the Building Code of Australia.

18 Prescribed circumstances in which accredited certifier taken not to be involved in design of aspect of development

For the purposes of section 67 (2) of the Act, the following circumstances are prescribed as circumstances in which an accredited certifier is taken not to be involved in the design of an aspect of development:

(a) if the accredited certifier provides advice on whether plans and specifications for that aspect of the development comply with applicable legislative requirements (including applicable requirements of the Building Code of Australia),

(b) if the accredited certifier provides advice on whether building work or subdivision work does or will comply with the approved plans and specifications for that aspect of the development or with the applicable requirements of the Building Code of Australia,

(c) if the accredited certifier provides advice on any of the matters referred to in section 109J of the Environmental Planning and Assessment Act 1979, or clauses 145 or 146 of the Environmental Planning and Assessment Regulation 2000, in relation to the aspect of the development,

(d) if the accredited certifier identifies the matters to be satisfied before a construction certificate can be issued in relation to the aspect of the development,
(e) if the accredited certifier indicates that an alternative solution is required to satisfy the applicable requirements of the Building Code of Australia in relation to the aspect of development,

(f) if the accredited certifier identifies the relevant requirements of the Building Code of Australia in relation to the aspect of the development without giving advice about the potential alternative solutions.
Part 6 Miscellaneous

19 Replacements certificates of accreditation
On application by an accredited certifier, the Board may issue a replacement certificate of accreditation if satisfied that a certificate of accreditation held by the accredited certifier has been lost, stolen or damaged.

20 Application for issue of certificate under section 91 of Act
A person may apply to the Board for the issue of a certificate under section 91 of the Act.

21 Fees
(1) The fees set out in Schedule 2 are payable to the Board.
(2) The Board may, either generally, in a class of cases or in a particular case, waive payment of the whole or any part of a fee referred to in Schedule 2.

22 Penalty notices
For the purposes of section 92 of the Act:
(a) each offence arising under a provision specified in Column 1 of Schedule 3 is prescribed as a penalty notice offence, and
(b) the prescribed penalty for such an offence is the amount specified in relation to the offence in Column 2 of Schedule 3.

23 Savings and transitional provisions
Schedule 4 has effect.
## Schedule 1  Categories of certificates of accreditation

### (Clause 4)

#### Part 1  Categories of certificates of accreditation

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| Category A2—Accredited certifier—building complying development grade 2 | Issue of complying development certificates for building work or change of use involving the following classes of buildings under the BCA:  
(a) class 1 and class 10 buildings,  
(b) class 2 to 9 buildings with a rise in storeys of up to 3 storeys maximum and a maximum floor area of 2,000m²,  
(c) buildings with a rise in storeys of up to 4 storeys maximum in the case of a building that comprises only a single storey of class 7a carpark located at the ground floor level or basement level and with 3 storeys of class 2 above and with a maximum floor area of 2000m². |

*Note. Class, rise in storeys and the floor area of the building have the same meanings as defined in the BCA. For the purpose of this category of accreditation, the maximum floor area and maximum rise in storeys restrictions relate to the whole building and not part of the building. Accordingly, in the case of alterations, additions and renovations to existing buildings, the maximum rise in storeys and maximum floor area restrictions relate to the whole building, which includes the existing building and the proposed new building work.*
### Categories of certificates of accreditation

#### Schedule 1

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<td>Issue of complying development certificates for proposed subdivision developments.</td>
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<tr>
<td>Category B1—Accredited certifier—building construction grade 1</td>
<td>Issue of construction certificates for building work on all classes and sizes of buildings under the BCA.</td>
</tr>
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</table>
| Category B2—Accredited certifier—building construction grade 2    | Issue of construction certificates for building work involving the following classes of buildings under the BCA:  
   (a) class 1 and class 10 buildings,  
   (b) class 2 to 9 buildings with a rise in storeys of up to 3 storeys maximum and a maximum floor area of 2,000m²,  
   (c) buildings with a rise in storeys of up to 4 storeys maximum in the case of a building that comprises only a single storey of class 7a carpark located at the ground floor level or basement level and with 3 storeys of class 2 above and has a maximum floor area of 2000m².  
   **Note.** Class, rise in storeys and the floor area of the building have the same meanings as defined in the BCA.  
   For the purpose of this category of accreditation, the maximum floor area and maximum rise in storeys restrictions relate to the whole building and not to part of the building. Accordingly, in the case of alterations, additions and renovations to existing buildings, the maximum rise in storeys and maximum floor area restrictions relate to the whole building, which includes the existing building and the proposed new building work. |
## Schedule 1 Categories of certificates of accreditation

### Public consultation draft

Building Professionals Regulation 2006

### Category B3—Accredited certifier—building construction grade 3

Issue of construction certificates for building work involving class 1 and class 10 buildings that achieve compliance with the performance requirements of the BCA by complying with the deemed-to-satisfy provisions of the BCA. However, does not include issue of construction certificates where compliance with the performance requirements of the BCA is achieved by formulating an alternative solution.

**Note.** Class, performance requirements, alternative solution and deemed-to-satisfy provisions have the same meaning as defined in the BCA.

### Category B4—Accredited certifier—subdivision construction

Issue of construction certificates for subdivision work.

### Category C1—Accredited certifier—building compliance grade 1

Issue of compliance certificates for building work or change of use on all classes and sizes of buildings under the BCA. However, does not include issue of compliance certificates in relation to the following:

(a) building work for which compliance certificates can be issued by accredited certifiers accredited in categories of accreditation C4 to C19 inclusive,

(b) any matters in the BCA Volume 1 Section B except for matters in AS 3700 (buildings of up to 2 storeys), AS 1288, AS 3660.1, AS 1860 (except for clauses 5 and 6 and Table 1), earthwall construction, AS 2867 and AS1684,

(c) matters in the BCA Volume 1 Section C1.11 Specification C1.11 or alternative solutions to these matters,

(d) matters in the BCA Volume 1 Section E in relation to AS 2665, AS 1670 (Part 4), AS 4428 (Part 4), AS 2441, AS 2419, AS 2118, AS 2293, AS 1735 Parts 1 to 11, AS 1670, AS 1668.1, Specification E2.2 (b) or alternative solutions to these matters,

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<td>Category of accreditation</td>
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<tr>
<td>Category B3—Accredited certifier—building construction grade 3</td>
<td>Issue of construction certificates for building work involving class 1 and class 10 buildings that achieve compliance with the performance requirements of the BCA by complying with the deemed-to-satisfy provisions of the BCA. However, does not include issue of construction certificates where compliance with the performance requirements of the BCA is achieved by formulating an alternative solution. <strong>Note.</strong> Class, performance requirements, alternative solution and deemed-to-satisfy provisions have the same meaning as defined in the BCA.</td>
</tr>
<tr>
<td>Category B4—Accredited certifier—subdivision construction</td>
<td>Issue of construction certificates for subdivision work.</td>
</tr>
<tr>
<td>Category C1—Accredited certifier—building compliance grade 1</td>
<td>Issue of compliance certificates for building work or change of use on all classes and sizes of buildings under the BCA. However, does not include issue of compliance certificates in relation to the following: (a) building work for which compliance certificates can be issued by accredited certifiers accredited in categories of accreditation C4 to C19 inclusive, (b) any matters in the BCA Volume 1 Section B except for matters in AS 3700 (buildings of up to 2 storeys), AS 1288, AS 3660.1, AS 1860 (except for clauses 5 and 6 and Table 1), earthwall construction, AS 2867 and AS1684, (c) matters in the BCA Volume 1 Section C1.11 Specification C1.11 or alternative solutions to these matters, (d) matters in the BCA Volume 1 Section E in relation to AS 2665, AS 1670 (Part 4), AS 4428 (Part 4), AS 2441, AS 2419, AS 2118, AS 2293, AS 1735 Parts 1 to 11, AS 1670, AS 1668.1, Specification E2.2 (b) or alternative solutions to these matters,</td>
</tr>
</tbody>
</table>
Building Professionals Regulation 2006

Categories of certificates of accreditation

Schedule 1

Public consultation draft

Column 1 | Column 2
---|---
**Category of accreditation** | **Authorities conferred by certificate**
---|---
(e) matters in the BCA Volume 1 Section F in relation to AS 1668.2, AS 1276 or alternative solutions to these matters,
(f) any matters in the BCA Volume 1 Section I,
(g) matters in the BCA Volume 2 Section 3 in relation to AS 1170, AS 4100, AS/NZS 4600, AS 1664, AS 1720.1, AS 3600, AS 2159, AS 3700, (over 3 storeys) or AS 2327 or alternative solutions to these matters,
(h) any matters relating to heritage, hydraulic fire services, electrical fire services, structural engineering, mechanical services, energy management (except for class 1 buildings), geotechnical engineering (except for class 1 buildings), civil engineering, building acoustics engineering and subdivision.

Category C2—Accredited certifier—building compliance grade 2

Issue of compliance certificates for building work or change of use involving the following classes of buildings under the BCA:

(a) class 1 and class 10 buildings,
(b) class 2 to 9 buildings with a rise in storeys of up to 3 storeys maximum and a maximum floor area of 2,000m²,
(c) buildings with a rise in storeys of up to 4 storeys maximum in the case of a building that comprises only a single storey of class 7a carpark located at the ground floor level or basement level and with 3 storeys of class 2 above and has a maximum floor area of 2000m².

However, does not include issue of compliance certificates in relation to the following:

(a) building work for which compliance certificates can be issued by accredited certifiers accredited in categories of accreditation C4 to C19 inclusive,
(b) any matters in the BCA Volume 1 Section B except for matters in AS 3700 (buildings of up to 2 storeys), AS 1288, AS 3660.1, AS 1860 (except for clauses 3 and 6 and Table 1), earthwall construction, AS 2867 and AS 1684,
### Public consultation draft

**Building Professionals Regulation 2006**

**Schedule 1 Categories of certificates of accreditation**

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category of accreditation</td>
<td>Authorities conferred by certificate</td>
</tr>
<tr>
<td>(c) matters in the BCA Volume 1 Section C1.11, Specification C1.11 or alternative solutions to those matters,</td>
<td></td>
</tr>
<tr>
<td>(d) matters in the BCA Volume 1 Section E in relation to AS 2665, AS 2220, AS 1221, AS 2441, AS 2419, AS 2118, AS 2293, AS 1735 Parts 1 to 11, AS 1670, AS 1668.1, Specification E2.2 (b) or alternative solutions to these matters,</td>
<td></td>
</tr>
<tr>
<td>(e) matters in the BCA Volume 1 Section F in relation to AS 1668.2, AS 1276 or alternative solutions to those matters,</td>
<td></td>
</tr>
<tr>
<td>(f) any matters in the BCA Volume 1 Section I,</td>
<td></td>
</tr>
<tr>
<td>(g) any matters in the BCA Volume 2 Section 2,</td>
<td></td>
</tr>
<tr>
<td>(h) matters in the BCA Volume 2 Section 3 in relation to in AS 1170, AS 4100, AS/NZS 4600, AS 1664, AS 1720, AS 3600, AS 2159, AS 3700 (over 3 storeys), AS 2327 or alternative solutions to those matters,</td>
<td></td>
</tr>
<tr>
<td>(i) any matters relating to heritage, hydraulic fire services, electrical fire services, structural engineering, mechanical services, building acoustics and subdivision.</td>
<td></td>
</tr>
</tbody>
</table>

For the purpose of this category of accreditation, the maximum floor area and maximum rise in storeys restrictions relate to the whole building and not to part of the building. Accordingly, in the case of alterations, additions and renovations to existing buildings, the maximum rise in storeys and maximum floor area restrictions relate to the whole building, which includes the existing building and the proposed new building work.

**Note. Class, rise in storeys** and the **floor area** of the building have the same meanings as defined in the BCA.
## Categories of certificates of accreditation

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Category of accreditation</strong></td>
<td><strong>Authorities conferred by certificate</strong></td>
</tr>
</tbody>
</table>
| Category C3—Accredited certifier—building compliance grade 3 | Issue of compliance certificates for building work or change of use involving class 1 and class 10 buildings under the BCA. However, does not include issue of compliance certificates in relation to the following:  
(a) building work for which compliance certificates can be issued by accredited certifiers accredited in categories of accreditation C4 to C19 inclusive,  
(b) any matters in the BCA Volume 1,  
(c) any matters in the BCA Volume 2 Section 2,  
(d) matters in the BCA Volume 2 Section 3 in relation to AS 1170, AS 4100, AS/NZS 4600, AS 1664, AS 1720, AS 3600, AS 2159, AS 3700 (over 3 storeys) or AS 2327,  
(e) any matters relating to heritage, hydraulic fire services, electrical fire services, structural engineering, mechanical services, energy management (except for class 1 buildings), civil engineering, building acoustics engineering and subdivision. |
| Category C4—Accredited certifier—private road and drainage design compliance | Issue of compliance certificates for designs of private road and drainage designs including related earthworks associated with a building site. For the purpose of this category of accreditation, private road and drainage and related earthworks means roads and drainage and related earthworks that will not be dedicated to the public (being the local council, State Government or Federal Government) and includes private internal roads and stormwater drainage such as overland flow paths, surface runoff, subsoil and inter-allotment drainage. |
| Category C5—Accredited certifier—private road and drainage construction compliance | Issue of compliance certificates for constructed private road and drainage works including related earthworks. For the purpose of this category of accreditation, private road and drainage and related earthworks means roads and drainage and related earthworks that will not be dedicated to the public (being the local council, State Government or Federal Government) and includes private internal roads and stormwater drainage such as overland flow paths, surface runoff, subsoil and inter-allotment drainage. |
## Building Professionals Regulation 2006

### Schedule 1 Categories of certificates of accreditation

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category of accreditation</td>
<td>Authorities conferred by certificate</td>
</tr>
<tr>
<td>Category C6—Accredited certifier—stormwater management facilities design compliance</td>
<td>Issue of compliance certificates for designs of stormwater management facilities. Stormwater management facilities include stormwater quantity controls e.g. on-site stormwater detention, stormwater quality controls, and similar elements of water sensitive urban design. Stormwater management facilities designs relate to stormwater management facilities planned for subdivision or building work (where applicable).</td>
</tr>
<tr>
<td>Category C7—Accredited certifier—stormwater management facilities construction compliance</td>
<td>Issue of compliance certificates for constructed stormwater management facilities. Stormwater management facilities includes stormwater quantity controls e.g. on-site stormwater detention, stormwater quality controls, and similar elements of water sensitive urban design. Stormwater management facilities designs relate to stormwater management facilities planned for subdivision or building work (where applicable).</td>
</tr>
<tr>
<td>Category C8—Accredited certifier—subdivision and building (location of works as constructed) compliance</td>
<td>Issue of compliance certificates to verify location of subdivision works and building works as constructed, including the location of constructed roads, subdivision works, services, drainage, detention basins and structures, finished building floor levels and finished ground levels.</td>
</tr>
<tr>
<td>Category C9—Accredited certifier—subdivision road and drainage construction</td>
<td>Issue of compliance certificates for constructed subdivision road and drainage works.</td>
</tr>
<tr>
<td>Category C10—Accredited certifier—structural engineering (building) compliance</td>
<td>Issue of compliance certificates for structural components of building work.</td>
</tr>
<tr>
<td>Category C11—Accredited certifier—electrical services (building) compliance</td>
<td>Issue of compliance certificates for electrical components and systems of building work.</td>
</tr>
<tr>
<td>Category C12—Accredited certifier—mechanical services (building) compliance</td>
<td>Issue of compliance certificates for mechanical components and systems of building work.</td>
</tr>
<tr>
<td>Category C13—Accredited certifier—fire safety engineering compliance</td>
<td>Issue of compliance certificates in relation to the fire safety provisions of the BCA.</td>
</tr>
</tbody>
</table>
Public consultation draft

Building Professionals Regulation 2006

Categories of certificates of accreditation Schedule 1

<table>
<thead>
<tr>
<th>Category of accreditation</th>
<th>Authorities conferred by certificate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category C14—Accredited certifier—energy management compliance</td>
<td>Issue of compliance certificates for the energy management components of building work.</td>
</tr>
<tr>
<td>Category C15—Accredited certifier—geotechnical engineering compliance</td>
<td>Issue of compliance certificates for the design and specification of foundations, earthworks, earth retaining structures and pavements relevant to subdivision work and buildings with a rise in storeys of 3 storeys maximum. <strong>Note.</strong> Rise in storeys has the same meaning as defined in the BCA.</td>
</tr>
<tr>
<td>Category C16—Accredited certifier—acoustics (building) compliance</td>
<td>Issue of compliance certificates for acoustics components and systems of building work.</td>
</tr>
<tr>
<td>Category C17—Accredited certifier—building hydraulics compliance</td>
<td>Issue of compliance certificates in relation to various aspects of building hydraulics. These include sanitary services, sewerage, hot and cold water services, recycled water services, gas services, fire hydrants, fire hose reel services, fire sprinkler services, trade waste plumbing and special services such as medical gases in hospitals.</td>
</tr>
<tr>
<td>Category C18—Accredited certifier—stormwater compliance</td>
<td>Issue of compliance certificates in relation to various aspects of stormwater hydraulics for buildings. These include roof gutters, sumps and downpipes, in-ground drainage, surface drainage, water quality controls and sub-soil drainage (that is, underground car parks, retaining walls, etc).</td>
</tr>
<tr>
<td>Category C19—Accredited certifier—speciality hydraulic services compliance</td>
<td>Issue of compliance certificates in relation to various aspects of speciality hydraulics services in buildings. These include sewerage pumping stations, sewerage treatment plants and ponds and trade waste treatment services (that is, grease arresters, dilution systems, heavy metals extraction systems, etc.)</td>
</tr>
<tr>
<td>Category D1—Principal certifying authority—building occupation grade 1</td>
<td>Issue of occupation certificates for buildings of all classes and sizes under the BCA.</td>
</tr>
</tbody>
</table>
Category D2—Principal certifying authority—building occupation grade 2

Issue of occupation certificates for buildings involving the following classes of buildings under the BCA:

(a) class 1 and class 10 buildings,
(b) class 2 to 9 buildings with a rise in storeys of up to 3 storeys maximum and maximum floor area of 2,000m²,
(c) buildings with a rise in storeys of up to 4 storeys maximum in the case of a building that comprises only a single storey of class 7a carpark located at the ground floor level or basement level and with 3 storeys of class 2 above and has a maximum floor area of 2000m².

Note. Class, rise in storeys and the floor area of the building have the same meanings as defined in the BCA.

For the purpose of this category of accreditation, the maximum floor area and maximum rise in storeys restrictions relate to the whole building and not to the part of the building. Accordingly, in the case of alterations, additions and renovations to existing buildings, the maximum rise in storeys and maximum floor area restrictions relate to the whole building, which includes the existing building and the proposed new building work.

Category D3—Principal certifying authority—building occupation grade 3

Issue of occupation certificates for class 1 and 10 buildings achieve compliance with the performance requirements of the BCA by complying with the deemed-to-satisfy provisions of the BCA. However, does not include issue of occupation certificates where compliance with the performance requirements of the BCA is achieved by formulating an alternative solution.

Note. Class, performance requirements, alternative solution and deemed-to-satisfy provisions have the same meaning as defined in the BCA.

Category E1—Principal certifying authority—subdivision registration

Issue of subdivision certificates.

Category F1—Accredited certifier—strata registration

Part 2 Definitions

1 Definitions

(1) In this Schedule:

building acoustics means the effects and impacts of noise and vibration on a development and properties adjacent to the development during the construction and use of all classes of buildings.

civil engineering means the design, construction and commissioning of drainage and sewerage systems and structures, earth retaining structures, earthworks and bulk landscaping, road layout, furnishings and traffic systems, embankments and pavements and utility services installations.

electrical fire services means the design of fire detection and early warning and intercommunication systems for all classes of buildings.

electrical services means the planning, design, construction, supervision, monitoring and maintenance of electrical systems in any class of building, including power supply, distribution, protection and earthing, lighting requirements (such as emergency and evacuation and exit lighting), telecommunications and fire detection systems to facilitate the safe occupancy and use of the building.

energy management means the planning, design, monitoring and maintenance of sustainable and efficient energy systems in the built environment through the use of materials, orientation, insulation and window treatments.

gеotechnical engineering means the assessment, evaluation, analysis and geotechnical design in relation to stability and differential movement of natural and excavated slopes, filled sites, expansive and reactive soils, construction over voids as affecting foundations and structures and includes the sampling, testing and analysis of groundwater effects, soil properties and characteristics and soil behaviour.

heritage matters means matters related to the heritage significance of a building or part of a building, a work, a relic, a place, an archaeological site, a streetscape, a tree or another landscape element.

hydraulic fire services means the design of fire main, fire hydrant, fire hose reel and fire sprinkler systems for any class of building.

mechanical services means the planning, design, construction, monitoring and maintenance of mechanical systems in any class of building including heating, ventilation, air-conditioning and air distribution, smoke control and exhaust, stairwell pressurisation systems and vertical transport systems to facilitate the safe occupation and use of the building.

structural engineering means the planning, design, construction, inspection, monitoring, maintenance, rehabilitation and demolition of any class of building, structure or structural system and its components.

subdivision matters means the subdivision of land pursuant to a development consent and includes the construction of roads and stormwater drainage systems in connection with the subdivision.

(2) A reference in this Schedule to AS or AS/NZS followed by a number is a reference to the Standard identified in the BCA by AS or AS/NZS followed by that number.
### Schedule 2  Fees

(Clauses 21)

<table>
<thead>
<tr>
<th>Fee</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,500</td>
<td>Application for accreditation or renewal of accreditation (for all categories applied for in one application)</td>
</tr>
<tr>
<td>$35</td>
<td>Application for replacement certificate of accreditation (clause 19)</td>
</tr>
<tr>
<td>Such fee, determined by the Board, as represents the reasonable cost to the Board of providing the course and as is notified to the person at the time the request for attendance at the course is made</td>
<td>Attendance at a continuing professional development course provided by the Board</td>
</tr>
<tr>
<td>$50 for each change of principal certifying authority Where 10 or more changes are submitted at the same time—$480 plus $30 for each change in excess of 10</td>
<td>Application under section 109EA of the <em>Environmental Planning and Assessment Act 1979</em> for approval of change of principal certifying authority or the giving of a notification under that section in relation to such a change</td>
</tr>
<tr>
<td>$20</td>
<td>Application for certificate under section 91 of the Act (clause 20)</td>
</tr>
</tbody>
</table>
Schedule 3 Penalty notice offences

(Column 22)

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offence Building Professionals Act 2005</td>
<td>Penalty ($)</td>
</tr>
<tr>
<td>Section 60 (1)</td>
<td>$550</td>
</tr>
<tr>
<td>Section 60 (2)</td>
<td>$550</td>
</tr>
<tr>
<td>Section 61 (1)</td>
<td>$550</td>
</tr>
<tr>
<td>Section 61 (2)</td>
<td>$550</td>
</tr>
<tr>
<td>Section 61 (3)</td>
<td>$110</td>
</tr>
<tr>
<td>Section 63 (1)</td>
<td>$1,100</td>
</tr>
<tr>
<td>Section 74 (1)</td>
<td>$550</td>
</tr>
</tbody>
</table>
Schedule 4 Savings and transitional provisions

1 Definitions

In this Schedule:

existing accredited certifier means a person who, by virtue of clause 2 of Schedule 2 to the Act, is taken to hold a certificate of accreditation.

former accreditation body means a professional association that was authorised under section 109S of the Environmental Planning and Assessment Act 1979 as an accreditation body or any person who was exercising the functions of a defunct accreditation body in accordance with the regulations under that Act.

previous accreditation, in relation to an existing accredited certifier, means the accreditation that the existing accredited certifier had under the Environmental Planning and Assessment Act 1979 immediately before the commencement of clause 2 of Schedule 2 to the Act.

2 Conversion of existing certificates of accreditation

(1) The Board may, without the need for an application or payment of an application fee under section 5 of the Act, issue a certificate of accreditation under Part 2 of the Act to an existing accredited certifier.

(2) Any certificate of accreditation issued to an existing accredited certifier in the circumstances referred to in subclause (1) is to be of a category that, either with or without the imposition of conditions, most closely equates to the previous accreditation of the certifier.

(3) On the issue of a certificate of accreditation to an existing accredited certifier in the circumstances referred to in subclause (1), clause 2 of Schedule 2 to the Act ceases to apply to the certifier.

(4) For the avoidance of doubt, the provisions of the Act (other than sections 5 and 7 (1) (a) and (b) and (2)) apply to a certificate of accreditation issued in the circumstances referred to in subclause (1) in the same way as they apply to a certificate of accreditation issued in other circumstances.

(5) In applying section 10 of the Act to a certificate of accreditation issued to an existing accredited certifier in the circumstances referred to in subclause (1), the reference in section 10 (1) to one year is to be read as the remainder of the period for which the certifier’s previous accreditation had been issued.

(6) In applying section 18 of the Act to the issue of a certificate of accreditation to an existing accredited certifier in the circumstances referred to in subclause (1), the certifier is taken to have made an
3 Renewals of accreditation

(1) For the purposes of the first renewal of the certificate of accreditation issued to an existing accredited certifier in the circumstances referred to in clause 2 (1), the existing accredited certifier is taken to have undertaken all the necessary continuing professional development required by the accreditation scheme if the certifier has participated in and satisfied the requirements of the continuing professional development program conducted by the former accreditation body that issued the previous accreditation to the certifier.

(2) An existing accredited certifier who is issued a certificate of accreditation in the circumstances referred to in clause 2 (1) may notify the Board in writing, when applying for the first renewal of the certificate of accreditation, that the certifier elects to be assessed for the purposes of section 7 (1) (b) of the Act for that first renewal.

(3) If an election is not made by an existing certifier under subclause (2), the Board is not to assess the certifier for the purposes of section 7 (1) (b) of the Act until the certifier applies for the second renewal of the certificate of accreditation concerned.

4 Disciplinary provisions

(1) A complaint may be made under Part 3 of the Act in relation to a person who was an accredited certifier under the Environmental Planning and Assessment Act 1979 in relation to conduct occurring before the commencement of this clause.

(2) Subclause (3) applies in relation to dealing with any of the following complaints:

(a) complaint that, by virtue of subclause (1), may be made against a person under the Act,

(b) a complaint that, by virtue of clause 3 (1) of Schedule 2 to the Act, is to continue to be dealt with under the Act,

(c) a complaint that, by virtue of clause 3 (4) of Schedule 2 to the Act, may be made against a person under the Act.

(3) Any complaint referred to in subclause (2) is to be dealt with as if:

(a) the definitions of professional misconduct and unsatisfactory professional conduct in section 109R of the Environmental Planning and Assessment Act 1979 (as in force immediately before their repeal) applied to the complaint rather than the
definitions of those terms in section 19 of the Building Professionals Act 2005, and

(b) the applicable code of conduct for the purposes of those definitions is the code of conduct that applied to the person at the time the conduct the subject of the complaint occurred, and

(c) the provisions of the Environmental Planning and Assessment Act 1979 imposing requirements on accredited certifiers and creating offences in relation to the conduct of accredited certifiers that were in force at the time the conduct concerned occurred were applicable rather than the provisions of the Building Professionals Act 2005.