



Accreditation of bodies corporate

The Building Professionals Board accredits bodies corporate under the *Building Professionals Act 2005* (BP Act). This means a body corporate can be appointed as the certifying authority for development and can, in certain circumstances:

- issue complying development certificates, construction certificates, compliance certificates and strata certificates
- be appointed as the principal certifying authority (PCA)
- carry out inspections and issue occupation and subdivision certificates.

Activities are carried out in the name of the accredited body corporate by employees and directors who, as accredited certifiers, are the signatories to relevant certificates and act within the authorisation of their individual accreditation. An accredited body corporate must comply with the BP Act, *Environmental Planning and Assessment Act 1979* (EP&A Act) and strata schemes legislation (as relevant) when carrying out certification work.

A body corporate PCA can decide which accredited certifier carries out the work, subject to their category of accreditation. This overcomes the need to change the PCA when an accredited certifier takes leave, becomes ill or no longer wishes to practise. It also:

- facilitates a long-term commitment by a single company
- lessens disruptions
- removes the need to transfer files when individuals resign
- allows a range of experts to facilitate the work involved in a development, including when a PCA is unable to undertake work outside his or her accreditation
- enables easy transfer of work between company employees.

To be accredited and renew accreditation, a body corporate must employ, or have as directors, at least three accredited certifiers, including one accredited certifier director. If staff changes mean the body corporate doesn't meet this requirement, they have three months in which to make necessary changes to personnel to meet the requirement. It can continue to operate as an accredited body corporate during this period.

An accredited body corporate must report to the Board in writing within seven days when:

- it ceases to have at least one accredited certifier director or to have at least three accredited certifiers, including a director
- an accredited certifier employee or director, or person concerned in the management of the body corporate, commences or ceases employment with the body corporate.

Contracted accredited certifiers must be an employee of the company in order to be able to carry out certification work. Generally, a contractor will be an employee if they have all of the advantages, and are subject to the requirements, of employment by the body corporate.

If an accredited certifier director or employee of an accredited body corporate has a conflict of interest, the body corporate is taken also to have a conflict of interest, as are the other accredited certifier directors and employees of the body corporate.

Accredited certifiers employed by an accredited body corporate have the same responsibilities as all other accredited certifiers.

Responsibilities of accredited certifier directors

When carrying out certification work in the name of the body corporate, accredited certifier directors are subject to the same requirements as if they were the certifying authority. They do, however, have obligations over and above their obligations as individual accredited certifiers or accredited certifier employees of an accredited body corporate.

Accredited certifier directors must ensure the body corporate complies with the requirements of the BP Act and other legislation, and that the body corporate has appropriate management strategies to do so, such as:

- documenting all decisions and the reasons for these decisions
- managing and supervising accredited certifier employees in accordance with the requirements of the BP Act
- ensuring all employees comply with systems of management
- ensuring clear, appropriate and prompt communication with all parties, including the principal, employees, contractors, councils and regulatory bodies
- complying with other statutory requirements such as maintaining required insurance, identifying and managing conflicts of interest, record keeping, notifying the Board when required under the BP Act and operating within the scope of accreditation
- documenting and regularly reviewing management systems.

Accredited certifier directors must allocate certification work to a director or employee with the appropriate level of accreditation and competence. Different certification work relating to the same development can be allocated to different accredited certifier employees, as long as they hold the appropriate accreditation.

Accredited certifier directors must tell the client which individual accredited certifier will be responsible for undertaking relevant work, provide relevant contact details, and notify the client of any personnel changes.

If the body corporate contravenes any provision of the BP Act or BP Regulation, each director (including each accredited certifier director and each person concerned in the management of the company) is taken to have contravened the same provision if they knowingly authorised or permitted the contravention.

There is no direct responsibility on accredited certifier directors to ensure their employees meet the terms and conditions of their accreditation. However, the obligation to report any possible unsatisfactory professional conduct and professional misconduct to the Board, and the further obligation to ensure all legislation is complied with, may impose an associated obligation to ensure accredited certifier employees comply with the terms and conditions of their accreditation.

If a body corporate has one or more accredited certifier directors, each of these obligations is placed equally on each accredited certifier director.

Reporting unsatisfactory professional conduct or professional misconduct

As above, accredited certifier directors are obligated to report any unsatisfactory professional conduct or professional misconduct displayed by the body corporate, another accredited certifier director or an accredited certifier employee of the body corporate.

This is a serious obligation – breaching it can itself be unsatisfactory professional conduct or professional misconduct – so accredited certifier directors are advised to err on the side of caution.

Keeping records

An accredited body corporate must keep all relevant records in relation to certification work for at least 10 years from the date of creation. The creator of the record (for example, the person who signed the Part 4A certificate) must have access the record during that period.

Relevant records include:

- applications for certificates, the decisions on those applications, the certificates issued and any plans and specifications in respect of the certificate issued
- any document the body corporate has relied on in issuing a certificate
- for each year to which the certificate of corporate accreditation relates, a list of projects in which a Part 4A or complying development certificate has been issued, including the types of certificates issued, the classification of the building involved, the name of the local government area, the address of the land/premises, the estimated cost of the project (except for subdivision certificates) or the number of lots to be created (for subdivision certificates), the name of the applicant, the owner of the land/premises and the name of the principal contractor (and similar records in relation to strata certificates)
- records in relation to critical stage inspections or missed inspections
- records of inspections when acting as a PCA for another certifying authority.

If a body corporate ceases to be accredited, the person who last held the position of accredited certifier director of the body corporate, and who is still an accredited certifier, must keep the records.

Complaints

Accredited bodies corporate can have complaints made about their professional conduct and may be subject to audit investigations. If a body corporate or an accredited certifier who is a director or employee of the body corporate is found guilty of unsatisfactory professional conduct or professional misconduct, the Board can disqualify the accredited certifier director from being involved in the management of the body corporate.

A complaint can only be made against a person concerned in the management of an accredited body corporate if they are also an accredited certifier.

How to apply

To apply for accreditation

- lodge an [Application](#)
- ensure each director or person concerned with the management of the body corporate (such as the CEO or CFO) who is not an accredited certifier completes and attaches a [fit and proper person declaration](#)
- include an organisational chart or similar document that shows the names, positions and reporting lines of each person concerned in the management of the body corporate (including all directors)
- pay the required fee.

Remember:

- Professional indemnity insurance must be maintained through the whole period of accreditation. The applicable professional indemnity insurance requirements are set out in [Part 4 of the BP Regulation](#).
- Accredited bodies corporate must renew their accreditation each year.
- Certificates of corporate accreditation may be granted subject to conditions. All initial certificates are subject to the condition that each accredited certifier director must undertake a course in relation to their responsibilities (this is a one-off requirement).



- Only accredited certifiers who are employees or directors of an accredited body corporate can carry out certification work on behalf of the body corporate.

An application may be refused, or accreditation suspended or cancelled, if:

- A director or person concerned in the management of the body corporate is not deemed a fit and proper person; has contravened laws relating to the functions of an accredited certifier or that involve fraud or dishonesty; has not complied with a statutory or other duty or contractual obligation; has previously had accreditation suspended or cancelled due to disciplinary action; or is an undischarged bankrupt.
- The company's equivalent authorisation in another jurisdiction has been suspended or cancelled; it is the subject of a winding up order or a controller or administrator has been appointed; it has represented itself as being an accredited certifier when it was not; or it has contravened any code of conduct in the accreditation scheme.
- Two or more directors or employees have together held positions in another body corporate that has had an application refused or certificate cancelled.
- The body corporate does not meet the requirements of accreditation.
- The body corporate, or an accredited certifier director or employee, has failed to comply with an order of the board following a disciplinary action.

For more information

- Circular PS 08-011 Commencement of provisions – accredited bodies corporate