



BUILDING ADVISORY SERVICES BRANCH

BUILDING NOTE

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DISABILITY ACCESS TO PREMISES STANDARDS SECTION 51 OF THE BUILDING ACT

Please note this Building Note is for notification and general information only. It is not a substitute for making direct reference to the legislation and is not legal advice.

The purpose of this Building Note is to clarify the difference between the transitional provisions in section 51 of the *Building Act* (NT) and the commencement of the Commonwealth Disability Access to Premises Standards ("the Standards"). The Standards are made under the *Disability Discrimination Act 1992* which is Commonwealth legislation.

The Standards commence on **1 May 2011** without any transitional arrangements. From that date, compliance with the Standards will be required. The 2011 Building Code of Australia ("BCA") mirrors the technical requirements in the Standards and will also commence on 1 May 2011. The BCA is incorporated into the *Building Act* (NT) by the Building Regulations (NT).

Section 51 of the *Building Act* (NT) allows for transitional arrangements to be made to account for the annual update of the BCA. This ensures that if a new edition of the BCA commences prior to the issue of a building permit, and substantial progress has been made in relation to the design of a building, the previous edition of the BCA can be applied to the building work.

As the Standards do not provide for transitional arrangements, and the *Building Act* (NT) does, it is necessary to clarify what legislation certifiers, developers, builders and property owners will be subject to from 1 May 2011.

The Northern Territory *Building Act* and Commonwealth Premises Standards legislation **will both** apply to building work in the Territory and are separate pieces of legislation.

A person that doesn't comply with the Standards from 1 May 2011 may be compliant with the Northern Territory *Building Act* because of section 51 but be exposed to a claim to the Federal Disability Discrimination Commissioner under the *Disability Discrimination Act 1992* (Cth). Any applications for a building permit submitted on or after 1 May 2011 for work that the Standards apply to, will need to comply with the Commonwealth Standards from that date in addition to the requirements of the *Building Act* (NT) to avoid such a claim.

Fabio Finocchiaro
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