

Background

- The safety and wellbeing of children in early childhood centres (ECCs) under the National Construction Code (NCC) or education and care services (services), as they are defined under the National Quality Framework (NQF) is a matter of great importance to our community.
- For those services located in multi-storey buildings, risks associated with emergency evacuation are increased, as young children are typically unable to respond independently and instead rely on the preparedness, knowledge and ability of early childhood professionals. The implementation of effective building safety features and emergency response equipment is the other critical measure in ensuring the overall safety of children in this situation.
- Several different regulatory systems work together to promote safety in these services and the government agencies responsible for setting and applying these regulatory standards meet regularly to share information.
- The NCC provides the minimum technical requirements for the design and construction of buildings, such as structural and fire safety, accessibility and the thermal performance of buildings in which these services operate.
- The NQF provides a national approach to the regulation, assessment and quality improvement for education and care services across Australia and includes consideration of a range of aspects such as health and safety in regard to emergency evacuation processes and the physical environment.

Role and responsibilities

- The Australian Building Codes Board (ABCB) is a joint initiative of the Commonwealth and state and territory governments in Australia and is responsible for the National Construction Code (NCC). The ABCB develops and maintains minimum, proportionate and cost-effective technical requirements that provide for the health and safety, amenity and accessibility, and sustainability of buildings. The ABCB is accountable to Building Ministers.
- The Australian Children's Education and Care Quality Authority (ACECQA) is the independent national authority that assists governments in administering the NQF for children's education and care. ACECQA works with the Australian and state and territory governments to implement changes that benefit children from birth to 13 years of age and their families. It also monitors and promotes the consistent application of the Education and Care Services National Law across all states and territories and supports the children's education and care sector to improve quality outcomes for children. It is guided by a governing [Board](#) whose members are nominated by each state and territory and the Commonwealth. The ACECQA Board is accountable to Education Ministers.
- In relation to the regulation and approval of services:
 - the ABCB, through the NCC, prescribes minimum necessary requirements for matters such as structural and fire safety, accessibility and the thermal performance of buildings in which ECCs operate.
 - State and Territory regulators are the entities with the statutory responsibility for approving providers and services under the NQF. The NQF includes long day care, family day care, preschool/kindergarten, and outside school hours care services. This is achieved through a system of the National Law and National Regulations, a National Quality Standard, assessment and quality rating process and national learning frameworks.

- The RAs are responsible for:
 - granting all approvals, including provider and service approvals, including consideration of the suitability of the premises
 - assessing and rating services against the National Quality Standard
 - ensuring ongoing compliance with the NQF
 - working with ACECQA to promote continuous quality improvement and educating the sector and community about the NQF.
- State and Territory regulators work with their regulator colleagues, such as building regulators, planning regulators, local councils and fire safety authorities.

Interaction of the NCC and NQF amendments and regulatory schemes

- Collaborative work between ACECQA, ABCB and RAs has been occurring for a number of years in relation to the development of NCC 2022 and the amendments to the NQF.
- While the new regulatory standards are now complete, these bodies see great merit in a continued partnership and have agreed to maintain a regular forum for information sharing and regulatory coordination.
- The NCC places a high priority on safety and the 2022 edition includes a range of improvements to give better certainty to children and workers in ECCs, such as changes to building classification and increased Deemed-to-Satisfy requirements relating to compartmentation and separation, fire isolated exits, handrails, fire-fighting equipment and smoke hazard management. These improvements apply to new buildings (or new building work in existing buildings).
- Based on findings from the 2019 NQF Review, Commonwealth, State and Territory Education Ministers have agreed to changes to the NQF. The amendments to the NQF strengthen the service approval process for education and care services located in multi-storey buildings, with RAs needing to consider whether a proposed premises is located on a floor which provides direct egress to an appropriate assembly area that ensures the safe evacuation of children attending the service, including infants and non-ambulatory children.
- Noting the different functions of the NCC and the NQF there will be differences in the regulatory approach taken on some matters. Where there is a difference or inconsistency between the NCC and the NQF provisions, the more stringent provision will generally apply. An example of this is in relation to fire safety egress, or evacuation, provisions:
 - The NCC prescribes requirements for fire-isolated stairways, fire compartmentation for safe refuge and quick-response sprinklers as the minimum necessary to enable safe evacuation from a building during a fire. The applicability of these requirements depends on, for example, whether an ECC has direct egress or is a standalone ECC of no more than 2 storeys, which takes into account the heightened risk posed for ECCs on higher levels and where buildings have shared occupancy.
 - The NQF amendments are complementary by requiring the direct egress to a safe outside assembly area as a mandatory consideration when assessing an application for an education and care service in a multi-storey building. There are also additional requirements for emergency evacuation policies and procedures.
- These provisions of the NQF, whilst complementary, are in addition to the NCC and also need to be met. The RA may also impose reasonable conditions that require additional building features, such as higher barriers in emergency stairwells to ensure children's health, safety and wellbeing and to prevent falls.