



New South Wales

Environmental Planning and Assessment Amendment (Building Code of Australia) Regulation 1999

under the

Environmental Planning and Assessment Act 1979

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

ANDREW REFSHAUGE MP

Minister for Urban Affairs and Planning

Explanatory note

The objects of this Regulation are:

- (a) to prescribe all amendments and variations to the Building Code of Australia that are made or approved from time to time by the Australian Building Codes Board as amendments and variations that form part of that Code rather than, as is presently the case, only those amendments and variations that have been made or approved before 1 July 1999, and
- (b) to amend Form 1 (Application for development consent) and Form 11 (Construction certificate) in Schedule 5 to the *Environmental Planning and Assessment Regulation 1994* as a consequence of amendments to sections 80 and 109F of the *Environmental Planning and Assessment Act 1979* that have been made by the *Environmental Planning and Assessment Amendment Act 1999*.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including section 157 (the general power to make regulations) and the definition of ***Building Code of Australia*** in section 4 (1).

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Clause 1 Environmental Planning and Assessment Amendment (Building Code of Australia) Regulation 1999

**Environmental Planning and Assessment
Amendment (Building Code of Australia)
Regulation 1999**

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Building Code of Australia) Regulation 1999*.

2 Commencement

- (1) This Regulation (except for Schedule 1 [2]) commences on 1 January 2000.
- (2) Schedule 1 [2] commences on the date on which the provisions of Schedule 4 [2] and [6] of the *Environmental Planning and Assessment Amendment Act 1999* commence.

3 Amendment of Environmental Planning and Assessment Regulation 1994

The *Environmental Planning and Assessment Regulation 1994* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 5A

Omit the clause. Insert instead:

5A Building Code of Australia

- (1) For the purposes of the definition of *Building Code of Australia* in section 4 (1) of the Act:
 - (a) all amendments to that Code made from time to time by the Australian Building Codes Board, and
 - (b) all variations of that Code approved from time to time by the Australian Building Codes Board in relation to New South Wales,are prescribed.
- (2) Any such amendment or variation comes into effect on the adoption date specified in that regard for New South Wales in the document by which the amendment or variation is published on behalf of the Australian Building Codes Board.

[2] Schedule 5 Forms

Omit Forms 1 and 11. Insert instead:

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Schedule 1 Amendments

Form 1

Application for development consent

Made under the *Environmental Planning and Assessment Act 1979*
Section 78A

Applicant

Name

Address

contact no (telephone/fax)

land to be developed

Address

lot no, DP/MPS, etc vol/fol

☐ map(s) attached (see note 1)

proposed development

Type

☐ use of land/building

☐ carrying out of work

☐ erection of a building

☐ demolition

☐ erection of a temporary building

☐ other

☐ subdivision of land/building

description

(eg residential flat building)

(eg location of proposed

temporary building)

proposed use

estimated cost (see note 2)

Approvals under s 68 Local

Government Act 1993

does this application seek approval
for one or more of the approvals
listed in the note to s 78A (3) ?

☐ yes ☐ no

list approval (s) sought

information to be submitted
(see note 3)

Integrated development

is this application for integrated
development ?

☐ yes ☐ no

list other approvals required to be
obtained (see note 4)

Fisheries Management Act 1994 ☐ s 144 ☐ s 201 ☐ s 205

Heritage Act 1977 ☐ s 58

Mine Subsidence Compensation Act 1961 ☐ s 15

National Parks and Wildlife Act 1974 ☐ s 90

Protection of the Environment Operations Act 1997 ☐ ss 43(a), 47 &
55 ☐ ss 43(b), 48 & 55 ☐ ss 43(d), 55 & 122

Rivers and Foreshores Improvement Act 1948 ☐ Part 3A

Roads Act 1993 ☐ s 138

Water Act 1912 ☐ s 10 ☐ s 13A ☐ s 18F ☐ s 20B

☐ s 20CA ☐ s 20L ☐ s 116 ☐ Part 8

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Schedule 1

Construction certificate

Is a construction certificate application to be lodged at the same time as the application for development consent ?

☐ yes ☐ no

information to be submitted

Where yes Form 11 must be completed and lodged with the application

type of consent

(if applicable)

☐ deferred commencement
☐ staged development

required attachments

☐ 3 copies of plan of land (see note 5)
☐ 3 copies of plans/drawings of proposed development (see note 6)
☐ 1 copy of plan for purposes of clause 48B of the *Environmental Planning and Assessment Regulation 1994* (see note 7)
☐ other information (see note 8)
☐ application fee

environmental impact

(for designated development) or
(for other development)
or

☐ an environmental impact statement (EIS) is attached
☐ a statement on environmental effects is attached (see note 9)
☐ the proposed development is considered to have negligible effect

other attachments

☐ additional material requested by consent authority (see note 10)
☐ additional material submitted by applicant (see note 11)
☐ details of any prior stage consent granted

consent of all owner(s)

signature(s)

(required if the applicant is not the owner of the land)
As the owner of the above property, I/we consent to this application.
(see note 12)

name(s)

date

_____/_____/_____

signed by applicant

or person signing on behalf of applicant - please state in what capacity

signature(s)

name, if not applicant

capacity, if not applicant

date

_____/_____/_____

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Schedule 1 Amendments

Notes for completing Development Application

- Note 1 A description of the land to be developed can be given in the form of a map which contains details of the lot number, DP/MPS, vol/foi etc.
- Note 2 In the case of a building or work, the fee is based on the estimated cost.
- Note 3 The application must be accompanied by such matters as would be required under s 81 of the *Local Government Act 1993* if approval was to be sought under that Act.
- Note 4 An application for integrated development must include:
- a) sufficient information for the approval body to make an assessment of the application
 - b) an additional fee for each approval body as determined by cl 100 of the *Environmental Planning and Assessment Regulation 1994*
 - c) additional copies of plans as determined by the consent authority
- Note 5 A plan of the land must indicate:
- a) location, boundary dimensions, site area and north point of the land
 - b) existing vegetation and trees on the land
 - c) location and uses of existing buildings on the land
 - d) existing levels of the land in relation to buildings and roads
 - e) location and uses of buildings on sites adjoining the land.
- Note 6 Plans or drawings describing the proposed development must indicate (where relevant):
- a) the location of proposed new buildings or works (including extensions or additions to existing buildings or works) in relation to the land's boundaries and adjoining development
 - b) floor plans of proposed buildings showing layout, partitioning, room sizes and intended uses of each part of the building
 - c) elevations and sections showing proposed external finishes and heights
 - d) proposed finished levels of the land in relation to buildings and roads
 - e) building perspectives, where necessary to illustrate the proposed building
 - f) proposed parking arrangements, entry and exit points for vehicles, and provision for movement of vehicles within the site (including dimensions where appropriate)
 - g) proposed landscaping and treatment of the land (indicating plant types and their height and maturity)
 - h) proposed methods of draining the land.
- Note 7 Where relevant an A4 plan of the building that indicates its height and external configuration, as erected, in relation to the site on which it is to be erected.

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Note 8	<p>Other information must indicate (where relevant):</p> <p>a) in the case of shops, offices, commercial or industrial development:</p> <ul style="list-style-type: none"> • details of hours of operation • plant and machinery to be installed • type, size and quantity of goods to be made, stored or transported • loading and unloading facilities <p>b) in the case of a change of building use (except where the proposed change is to a class 1a or class 10 building) where no alterations or additions to the existing building are proposed:</p> <ul style="list-style-type: none"> • a list of any fire safety measures in the building or on the land on which the building is situated in connection with the proposed change of building use, and • a separate list of such of those measures as are currently implemented in the building or on the land on which the building is situated. <p>The list must describe the extent, capability and basis of design of each of the measures concerned.</p> <p>c) in the case of subdivision:</p> <ul style="list-style-type: none"> • details of the existing and proposed subdivision pattern (including the number of lots and location of roads) • details of consultation with public authorities responsible for provision or amplification of utility services required by the proposed subdivision • preliminary engineering drawings indicating proposed infrastructure including roads, water, sewerage, and earthworks • existing and finished ground levels <p>d) in the case of demolition:</p> <ul style="list-style-type: none"> • details of age and condition of buildings or works to be demolished <p>e) in the case of advertisements:</p> <ul style="list-style-type: none"> • details of the size, type, colour, materials and position of the sign board or structure on which the proposed advertisement is to be displayed <p>f) in the case of development relating to an existing use:</p> <ul style="list-style-type: none"> • details of the existing use <p>g) in the case of development that requires consent under the <i>Wilderness Act 1987</i>:</p> <ul style="list-style-type: none"> • a copy of the consent under the <i>Wilderness Act 1987</i> <p>h) in the case of development involving the erection of a building, work or demolition:</p> <ul style="list-style-type: none"> • details of the methods of securing the site during the course of construction.
Note 9	<p>Where a proposed development is not designated development, the application must be accompanied by a statement of environmental effects unless the proposed development is considered to have negligible effect (eg minor interior alterations) which must:</p> <p>a) demonstrate that the environmental impact of the development has been considered</p> <p>b) set out steps to be taken to protect the environment or to mitigate the harm.</p>
Note 10	<p>The consent authority may, within 21 days of receiving the development application, ask for additional information on the development if that information is necessary for the determination of the application or if that information is required by a concurrence authority.</p>

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The consent authority may, within 25 days after the lodgement of a development application for integrated development, ask for additional information concerning the development if the information is necessary for the determination of the application or if the information is required by an approved body.

Note 11 The application may be supported with additional material (eg photographs, slides, models, etc) illustrating the proposed development and its context.

Note 12 In the case of Crown land within the meaning of the *Crown Lands Act 1989*, the owner's consent must be signed by an officer of the Department of Land and Water Conservation, authorised for these purposes by the Governor-in-Council, from time to time.

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Schedule 1

Form 11

Construction Certificateissued under the *Environmental Planning and Assessment Act 1979*
Sections 109C (1) (b), 81A (2) and 81A (4)**Application****applicant**name
address
contact no (telephone/fax)
signature**owner**name
address
contact no (telephone/fax)**consent of all owner(s)**

signature

I/we consent to this application

subject land

address

lot no, DP/MPS, etc vol/fol
area of site (m²)**description of development**

type of work

description

☐ building work ☐ subdivision work**development consent**development consent no
date of determination**Building Code of Australia****building classification**nominated on the development
consent**builder/owner builder**

(if known)

*to be completed in the case of
proposed residential building work*name
contractor licence no/permit no in
case of owner builder

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Schedule 1 Amendments

value of work
building/subdivision

required attachments
see note 1 and 2

- note 1 details the information that must be submitted with an application for a construction certificate for proposed subdivision or building works
- note 2 details the information that may be submitted with an application for a construction certificate for proposed residential building work.

schedule
(for building work only)

- the attached schedule is required to be completed for the purposes of providing information to the Australian Bureau of Statistics

date of receipt
date received *(to be completed by certifying authority)*

Determination

determination

approved/refused*
*delete whichever is not applicable

date of determination *(this date is to be the same as the date of endorsement of the certificate on the approved plans and specifications)*

attachments

- detail reasons for refusal
- schedule of essential fire safety measures
- conditions required to be attached by the Regulation

long service levy
See note 3

plans and specifications
approved /refused
list plan no(s) and specifications
reference

right of appeal

under s 109K where the certifying authority is a council an applicant may appeal to the Land and Environment Court against the refusal to issue a construction certificate within 12 months from the date of the decision.

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Certificate

certificate

I certify that the work if completed in accordance with these plans and specifications will comply with the requirements of s 81A (5) of the *Environmental Planning and Assessment Act 1979*.

signature
date of endorsement
certificate no

** prior to commencement of work ss 81A (2) (b) and (c), and/or 81A (4) (b) and (c) of the Environmental Planning and Assessment Act 1979 must be satisfied (see form 7).*

certifying authority

name of certifying authority
if accredited certifier
accreditation no
contact no
address

development consent

number and date of determination

** For the purposes of notifying a council under clause 79D (2) of the Regulation of the determination of an application an accredited certifier must forward all sections of this form, including all attachments, to the relevant council where they have not been previously forwarded to the council.*

Notes for completing Construction Certificate Application

Note 1 The following information must accompany applications for a construction certificate for building and subdivision work.

Building Work

In the case of an application for a construction certificate for **building work**:

- a) copies of compliance certificates relied upon
- b) four (4) copies of detailed plans and specifications

The plan for the building must be drawn to a suitable scale and consist of a general plan and a block plan. The general plan of the building is to:

- show a plan of each floor section
- show a plan of each elevation of the building
- show the levels of the lowest floor and of any yard or unbuilt on area belonging to that floor and the levels of the adjacent ground
- indicate the height, design, construction and provision for fire safety and fire resistance (if any)

Where the proposed building work involves any alteration or addition to, or rebuilding of, an existing building the general plan is to be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the proposed alteration, addition or rebuilding.

Where the proposed building work involves a modification to previously approved plans and specifications the general plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

The specification is:

- to describe the construction and materials of which the building is to be built and the method of drainage, sewerage and water supply
- state whether the materials proposed to be used are new or second hand and give particulars of any second-hand and give particulars of any second-hand materials to be used

- c) where the application involves an alternative solution to meet the performance requirements of the BCA, the application must also be accompanied by:
 - details of the performance requirements that the alternative solution is intended to meet, and
 - details of the assessment methods used to establish compliance with those performance requirements

- d) evidence of any accredited component, process or design sought to be relied upon

- e) except in the case of an application for, or in respect of, a class 1a or class 10 building:

- a list of any fire safety measures that are proposed to be implemented in the building or on the land on which the building is situated, and
- if the application relates to a proposal to carry out any alteration or rebuilding of, or addition to, an existing building, a separate list of such of those measures

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as are currently implemented in the building or on the land on which the building is situated.

The list must describe the extent, capability and basis of design of each of the measures concerned.

Subdivision Work

In the case of an application for a construction certificate for **subdivision work**:

- a) copies of compliance certificates relied upon
- b) four (4) copies of detailed engineering plans. The detailed plans may include but are not limited to the following:
 - earthworks
 - roadworks
 - road pavement
 - road furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - erosion control works

Where the proposed subdivision work involves a modification to previously approved plans the plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

Note 2

Home Building Act Requirements

In the case of an application for a construction certificate for residential building work (within the meaning of the *Home Building Act 1989*) attach the following:

- (a) in the case of work by a licensee under that Act:
 - (i) a statement detailing the licensee's name and contractor licence number, and
 - (ii) documentary evidence that the licensee has complied with the applicable requirements of that Act*, or
- (b) in the case of work done by any other person:
 - (i) a statement detailing the person's name and owner-builder permit number, or
 - (ii) a declaration signed by the owner of the land, to the effect that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner-builder work* in section 29 of that Act.

* A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* to the effect that a person is the holder of an insurance contract issued for the purposes of that Part, is sufficient evidence that the person has complied with the requirements of that Part.

Note 3

Under s 109F(1) of the *Environmental Planning and Assessment Act 1979* a construction certificate cannot be issued until any long service levy payable under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* (or where such a levy is payable by instalments, the first instalment of the levy) has been paid. The local council may be authorised to accept payment.

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Schedule to Construction Certificate Application

particulars of the proposal

What is the area of the land (m²) _____
Gross floor area of existing building (m²) _____
What are the current uses of all or parts of the building(s)/land?
(If vacant state vacant) _____

Location	Use
_____	_____
_____	_____

Does the site contain a dual occupancy? _____

What is the gross floor area of the proposed addition or new building
(m²) _____
What are the proposed uses of all parts of the building(s)/land? _____

Location	Use
_____	_____
_____	_____

Number of pre-existing dwellings _____

Number of dwellings to be
demolished _____

How many dwellings are proposed? _____

How many storeys will the building consist of? _____

materials to be used

Place a tick () in the box which best describes the materials the new work
will be constructed of:

walls	code	roof	code
brick veneer	12	aluminium	70
full brick	11	concrete	20
single brick	11	concrete tile	10
concrete block	11	fibrous cement	30
concrete/masonry	20	fibreglass	80
concrete	20	masonry/terracotta shingle	
steel	60	tiles	10
fibrous cement	30	slate	20
hardiplank	30	steel	60
timber/weatherboard	40	terracotta tile	10
cladding-aluminium	70	other	80
curtain glass	50	unknown	90
other	80		
unknown	90		
floor		frame	
concrete	20	timber	40
timber	10	steel	60
other	80	other	80
unknown	90	unknown	90

BY AUTHORITY