



New South Wales

Environmental Planning and Assessment Amendment (Compliance Certificates) Regulation 2007

under the

Environmental Planning and Assessment Act 1979

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

FRANK SARTOR, M.P.,
Minister for Planning

Explanatory note

The object of this Regulation is to amend the *Environmental Planning and Assessment Regulation 2000* to require a certifying authority to obtain a compliance certificate from a person holding Category C10 accreditation under the *Building Professionals Act 2005* before issuing a complying development certificate, construction certificate or occupation certificate for a building or building work involving an alternative solution under the *Building Code of Australia* in respect of fire safety requirements.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 81A, 85, 109H and 157 (the general regulation-making power).

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Clause 1

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(Compliance Certificates) Regulation 2007**

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Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Compliance Certificates) Regulation 2007*.

2 Commencement

This Regulation commences on 1 March 2008.

3 Amendment of Environmental Planning and Assessment Regulation 2000

The *Environmental Planning and Assessment Regulation 2000* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Insert in alphabetical order:

fire safety requirement means a requirement under the *Building Code of Australia* relating to:

- (a) a fire safety system, as defined in the *Building Code of Australia*, and components of a fire safety system, or
- (b) the safety of persons in the event of fire, or
- (c) the prevention, detection or suppression of fire.

[2] Clause 130 procedure for determining application for complying development certificate

Insert after clause 130 (2):

(2A) A certifying authority must not issue a complying development certificate for building work that involves an alternative solution under the *Building Code of Australia* in respect of a fire safety requirement unless the certifying authority has obtained or been provided with a compliance certificate referred to in section 109C (1) (a) (v) of the Act that:

- (a) was issued by a person holding Category C10 accreditation under the *Building Professionals Act 2005*, and
- (b) certifies that the alternative solution complies with the relevant performance requirements of the *Building Code of Australia*.

[3] Clause 144A

Insert after clause 144:

144A Compliance certificate required for certain fire safety aspects of building work

A certifying authority must not issue a construction certificate for building work that involves an alternative solution under the *Building Code of Australia* in respect of a fire safety requirement unless the certifying authority has obtained or been provided with a compliance certificate referred to in section 109C (1) (a) (v) of the Act that:

- (a) was issued by a person holding Category C10 accreditation under the *Building Professionals Act 2005*, and

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Schedule 1 Amendments

- (b) certifies that the alternative solution complies with the relevant performance requirements of the *Building Code of Australia*.

[4] Clause 153A

Insert after clause 153:

153A Compliance certificate required for certain fire safety aspects of building work

A certifying authority must not issue an occupation certificate for a building in respect of which a compliance certificate is required under clause 130 (2A) or 144A (the *first compliance certificate*) unless the certifying authority has obtained or been provided with another compliance certificate referred to in section 109C (1) (a) (i) of the Act that:

- (a) was issued by a person holding Category C10 accreditation under the *Building Professionals Act 2005*, and
- (b) certifies that the building work relating to the alternative solution that was the subject of the first compliance certificate has been completed and complies with that alternative solution.

[5] Clause 291

Insert after clause 290:

290 Savings and transitional provisions relating to requirements to obtain compliance certificates for alternative fire safety solutions

- (1) Clause 130 (2A) applies to a complying development certificate only if the application for the certificate was made after 1 March 2008.
- (2) Clause 144A applies to a construction certificate only if the application for the certificate was made after 1 March 2008.
- (3) Clause 153A applies to an occupation certificate only if the application for the certificate was made after 1 March 2008 and the certificate is for a building resulting from building work in respect of which a compliance certificate under clause 130 (2A) or 144A is required.

BY AUTHORITY
