



New South Wales

Environmental Planning and Assessment Amendment (Site Compatibility Certificates) Regulation 2009

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*.

KRISTINA KENEALLY, MP
Minister for Planning

Explanatory note

The object of this Regulation is to amend the *Environmental Planning and Assessment Regulation 2000*:

- (a) to require a development application that relates to development in respect of which a site compatibility certificate (**site compatibility certificate (affordable rental housing)**) issued by the Director-General of the Department of Planning is required under *State Environmental Planning Policy (Affordable Rental Housing) 2009* to be accompanied by such a certificate, and
- (b) to prescribe a maximum fee for an application for such a certificate, and
- (c) to require a planning certificate issued under section 149 of the *Environmental Planning and Assessment Act 1979* to contain statements that:
 - (i) specify whether there is a site compatibility certificate (affordable rental housing) in respect of a proposed development on land, the period for which the certificate is current and that a copy of the certificate can be obtained from the Department of Planning, and
 - (ii) set out any condition of consent required by *State Environmental Planning Policy (Affordable Rental Housing) 2009* that requires the development to be used for affordable housing.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 78A (1) and (9), 137, 149 (2) and 157 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Site Compatibility Certificates) Regulation 2009*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

site compatibility certificate means the following:

- (a) site compatibility certificate (affordable rental housing),
- (b) site compatibility certificate (infrastructure),
- (c) site compatibility certificate (seniors housing).

site compatibility certificate (affordable rental housing) means a certificate issued under clause 37 (5) of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

[2] Clause 50 How must a development application be made?

Omit clause 50 (2A) and (2B). Insert instead:

- (2A) A development application that relates to development in respect of which a site compatibility certificate is required by a State Environmental Planning Policy must be accompanied by such a certificate.

[3] Clause 262A

Omit clauses 262A and 262B. Insert instead:

262A What is the fee for a site compatibility certificate?

- (1) The maximum fee for an application to the Director-General for a site compatibility certificate (affordable rental housing) is \$250 plus an additional \$40 for each dwelling in the development in respect of which the certificate was issued.
- (2) The maximum fee for an application to the Director-General for a site compatibility certificate (infrastructure) is \$250 plus an additional \$250 for each hectare (or part of a hectare) of the area of the land in respect of which the certificate was issued.
- (3) The maximum fee for an application to the Director-General for a site compatibility certificate (seniors housing) is \$250 plus an additional:
 - (a) in the case where the proposed development is for the purposes of a residential care facility (within the meaning of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*)—\$40 per bed in the proposed facility, or

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Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

- (b) in any other case—\$40 per dwelling in the proposed development.
- (4) Despite any other provision of this clause, the fee for an application to the Director-General for a site compatibility certificate must not exceed \$5,000.

[4] Schedule 4 Planning certificates

Omit “site compatibility certificate (of which the council is aware), issued under clause 25 of that Policy” from clause 15 (a).

Insert instead “site compatibility certificate (seniors housing), of which the council is aware,”.

[5] Schedule 4, clause 16

Omit “site compatibility certificate (of which the council is aware), issued under clause 19 of *State Environmental Planning Policy (Infrastructure) 2007*”.

Insert instead “site compatibility certificate (infrastructure), of which the council is aware,”.

[6] Schedule 4, clause 17

Insert after clause 16:

17 Site compatibility certificates and conditions for affordable rental housing

- (1) A statement of whether there is a current site compatibility certificate (affordable rental housing), of which the council is aware, in respect of proposed development on the land and, if there is a certificate, the statement is to include:
 - (a) the period for which the certificate is current, and
 - (b) that a copy may be obtained from the head office of the Department of Planning.
- (2) A statement setting out any terms of a kind referred to in clause 17 (1) or 37 (1) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* that have been imposed as a condition of consent to a development application in respect of the land.