



New South Wales

Environmental Planning and Assessment Amendment (General Commercial and Industrial Code) 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 objects of this Regulation are to amend the *Environmental Planning and Assessment Regulation 2000*:

- (a) to enable a council or accredited certifier to require that additional information requested from an applicant for a complying development certificate be provided by a properly qualified person, and
- (b) to require certain reports to be obtained before the issue of a complying development certificate where an existing building is subject to an alternative solution relating to a fire safety requirement, and
- (c) to remove the requirement for a council or an accredited certifier to notify neighbours when a complying development certificate is issued (a condition requiring the person having the benefit of a complying development certificate to notify neighbours 2 days before work commences applies to complying development specified in the General Housing Code under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the **Codes SEPP**)), and
- (d) to correct a reference to the person who must endorse any relevant plans that are attached to a complying development certificate, and

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- (e) to require a council to provide information on a planning certificate issued under section 149 of the *Environmental Planning and Assessment Act 1979* as to whether or not complying development specified in each code for complying development under the Codes SEPP may be carried out on land, and if not, why it may not be carried out on that land.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 85A (6), (7) and (11), 149 (2) and 157 (the general regulation-making power), particularly section 157 (1) (g).

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (General Commercial and Industrial Code) Regulation 2009*.

2 Commencement

This Regulation commences on 7 September 2009 and is required to be published on the NSW legislation website.

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Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

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[1] Clause 127 Council or accredited certifier may require additional information

Insert after clause 127 (1):

- (1A) A council or an accredited certifier may require that the additional information under subclause (1) be obtained by or on behalf of the applicant from a properly qualified person.

[2] Clause 130 Procedure for determining application for complying development certificate and notification requirements

Insert after clause 130 (2D):

- (2E) A certifying authority must not issue a complying development certificate for proposed development comprising internal alterations to, or a change of use of, an existing building that is subject to an alternative solution relating to a fire safety requirement under the *Building Code of Australia* unless:
- (a) the certifying authority has obtained or been provided with a written report by another accredited certifier, who is an accredited certifier for the purpose of issuing a complying development certificate for a building of that kind, and
 - (b) the written report includes a statement that the proposed development is consistent with that alternative solution.

[3] Clause 130 (5) and (6)

Omit the subclauses.

[4] Clause 134 Form of complying development certificate

Omit “consent” from clause 134 (2A). Insert instead “certifying”.

[5] Schedule 4 Planning certificates

Omit clause 3. Insert instead:

3 Complying development

- (1) Whether or not the land is land on which complying development may be carried out under each of the codes for complying development in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

- (2) If complying development may not be carried out on that land because of one or more of the requirements under clause 1.19 of that Policy, why it may not be carried out.