



New South Wales

Environmental Planning and Assessment Amendment (Complying Development and Fire Safety) Regulation 2014

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*.

BRAD HAZZARD, MP
Minister for Planning and Infrastructure

Explanatory note

The object of this Regulation is to make the following changes to certain provisions about complying development and fire safety that are due to come into force on 22 February 2014 (having been made by the *Environmental Planning and Assessment Amendment (Complying Development and Fire Safety) Regulation 2013*):

- (a) to provide that the notices required to be given to neighbours about applications for certain complying development certificates must include the applicant's address and contact details (as well as the applicant's name),
- (b) to provide that the new requirement that an application for a complying development certificate be accompanied by a report from an accredited certifier about fire safety applies to existing buildings the approval for construction of which occurred before 1 January 1993, when the *Building Code of Australia* became the sole standard under which construction requirements are assessed (rather than only applying to buildings erected before 1 January 1993),
- (c) to allow a council to issue a complying development certificate where a report from an accredited certifier is required and where that report has been prepared by a Category A1 accredited certifier who is employed or engaged by the council,
- (d) to include demolition of a work or building, carried out on land adjacent to a public road, as a type of development for which the complying development certificate will be subject to a condition requiring payment of security to a council (if the council has publicised on its website that such a security must be paid),
- (e) to provide that information must be included in a planning certificate about the extent to which land is land on which complying development may be carried out, or may not be carried out, because of a provision of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* that provides that development is only complying development if it is not carried out on land that comprises, or on which there is, a draft heritage item (continuing the current obligation, but referring to a provision that has been moved).

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 80A (11), 81A (5), 85A (6), 109E (4) and 157 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Complying Development and Fire Safety) Regulation 2014*.

2 Commencement

This Regulation commences on the commencement of the *Environmental Planning and Assessment Amendment (Complying Development and Fire Safety) Regulation 2013* and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

- [1] **Clause 130AB Requirement to advise of applications for certain complying development certificates**
Insert “, address and contact details” after “name” in clause 130AB (3) (c).
- [2] **Clause 132A Additional requirements in relation to fire safety**
Omit clause 132A (1) (b). Insert instead:
 (b) approval for the construction of the existing building to which the development relates was given before 1 January 1993, and
- [3] **Clause 132A (2)**
Omit “independent”.
- [4] **Clause 132A (3A)**
Insert after clause 132A (3):
 (3A) The report of an accredited certifier that accompanies an application for a complying certificate must not be one prepared by the same person who will be determining the application for the relevant complying development certificate or by a person who is related to that person (within the meaning of section 68 of the *Building Professionals Act 2005*). However, this is permissible in the case where a council will be determining the application.
- [5] **Clause 132A (4)**
Omit “*independent*”.
- [6] **Clause 132A (4) (b)**
Omit “and”.
- [7] **Clause 132A (4) (c)**
Omit the paragraph.
- [8] **Clause 136M Condition relating to payment of security**
Insert “demolition of a work or building, erection of” after “development is” in clause 136M (1) (a).
- [9] **Schedule 4 Planning certificates**
Insert “, 1.18 (1) (c3)” after “(4)” wherever occurring in clause 3 (1) and (2).