New South Wales

Environmental Planning and Assessment Amendment (Compliance Fees) Regulation 2021

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*.

ROB STOKES, MP
Minister for Planning and Public Spaces

Explanatory note

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

(a) prohibit the charging of a fee by a council in relation to a development application for the exercise of the council's compliance or enforcement functions under the Act in relation to development carried out in the council's area (a ***compliance fee***), and

(b) enable certain councils to continue to charge a compliance fee in relation to a development application until 31 December 2021, subject to certain limitations.

Published LW 16 July 2021 (2021 No 383)

Environmental Planning and Assessment Amendment (Compliance Fees) Regulation 2021

under the

Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Compliance Fees) Regulation 2021*.

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 256BA

Insert after clause 256B—

256BA Fees not to be charged for council compliance and enforcement functions—the Act, s 4.64(1)(f)

(1) The charging of a fee by a council in relation to a development application for the exercise of the council's compliance or enforcement functions under the Act in relation to development carried out in the council's area is prohibited.

Note— The *Local Government Act 1993*, section 610(2) provides that a council must not charge a fee for a service if another Act prohibits the charging of the fee.

(2) This clause does not prohibit the charging of a fee that is specifically prescribed by this Regulation.

[2] Clause 298

Insert after clause 297—

298 Transitional provision for Environmental Planning and Assessment Amendment (Compliance Fees) Regulation 2021

(1) Clause 256BA does not apply to a relevant council in relation to a development application received by the relevant council on or before 31 December 2021.

(2) A relevant council may charge a prohibited fee in relation to a development application received on or before 31 December 2021.

(3) If a council charged a prohibited fee under subclause (2) and the applicant has not paid the fee on or by 31 December 2021—

(a) a fee payable under this Regulation in relation to a development application is taken to be reduced by the amount of the prohibited fee, and

(b) a council may not refuse to consider the development application because the amount of the prohibited fee remains unpaid.

(4) The amount of the prohibited fee must not exceed the fee that would have been charged if the application was made immediately before the commencement of clause 256BA.

(5) In this clause—

prohibited fee means a fee prohibited under clause 256BA.

relevant council means Ballina Shire Council, Bayside Council, Bellingen Shire Council, Byron Shire Council, Campbelltown City Council, Canterbury-Bankstown Council, City of Canada Bay Council, Georges River Council, Inner West Council, Ku-Ring-Gai Council, Lane Cove Municipal Council, Lismore City Council, Liverpool City Council, Mosman Municipal Council, Nambucca Valley Council, Newcastle City Council, North Sydney Council, Penrith City Council, Randwick City Council, Ryde City Council, the Council of the Municipality of Hunter's Hill, the Council of the Municipality of Kiama, the Council of the Shire of Hornsby, The Hills Shire Council, Tamworth Regional Council, Tweed Shire Council, Waverley Council, Wollondilly Shire Council and Woollahra Municipal Council.