



PLANNING SYSTEM

Act and regulation changes

Circular	PS 09–013
Issued	3 June 2009
Related	PS 09–005, PS 09–012

Complying development – changes to post-determination notification

The purpose of this circular is to provide councils, accredited certifiers and the community with information on changes to post-determination notification requirements for complying development.

Introduction

Planning Circular PS 09–005 outlined the changes to the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) with the introduction of the new framework for complying development on 27 February 2009.

The Department is continuing to work with stakeholders, including councils and privately operating accredited certifiers in respect of matters arising out of the implementation of the codes for both exempt and complying development, including notification.

Planning Circular PS 09–012, issued on 17 April 2009 outlined post-determination notification requirements for complying development. This circular provides further information regarding notifications.

The Department will issue further advice to stakeholders as various implementation matters are resolved.

Changes relating to the notification of complying development

One of the changes to the EP&A Regulation that took effect on 27 February 2009 is the requirement to provide written notice of a determination to issue a complying development certificate to the owner or occupier of any land within 40 metres of the land to which the certificate relates.

This notice is to be in the form approved by the Director-General of the Department of Planning and is to be given within two days after the date of determination to issue the complying development certificate.

The purpose of the notice is to inform neighbouring owners or occupiers that a complying development certificate has been issued. This notice form is available at www.planning.nsw.gov.au/housingcode.

Requirement to provide notice

The Environmental Planning and Assessment Amendment (Complying Development Certificates) Regulation 2009 (the Regulation Amendment) amends the EP&A Regulation to overcome some of the practical difficulties councils and accredited certifiers have faced in providing notification where the land is vacant.

Specifically the Regulation Amendment removes the requirement for notice to be given to the owner or occupier of the land in circumstances where there is not a dwelling situated on it.

The key benefit of the Regulation Amendment will be to remove a requirement that is impeding the intended uptake of complying development across NSW and limiting the issue of complying development certificates for the purposes of obtaining both the federal and state first home buyers grants.

The savings and transitional arrangements in the Regulation Amendment provide that on and from commencement of the provision, notice is not required to be issued under clause 130 to the owner or occupier of land on which no dwelling is situated in relation to a determination to issue a complying development certificate that was made before commencement.

Further information

Information about the NSW Housing Code is available on the Department's website at www.planning.nsw.gov.au/housingcode, including:

- State Environmental Planning Policy (Exempt and Complying Codes) 2008, as amended
- *NSW Housing Code: guide to complying development for detached housing* (Department of Planning 2008)
- facts sheets, frequently asked questions, education and training presentations
- specific practice notes and relevant planning circulars
- tables of equivalent zones in all local government areas
- nominations forms for local exclusions and variations.

For further information, please contact planningreform@planning.nsw.gov.au or call the Department of Planning's Information Centre on Freecall 1300 305 695 or 02 9228 6333.

Note: This and other Department of Planning circulars are published on the web at www.planning.nsw.gov.au/planningsystem/practicenotes.

Authorised by:

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Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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