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## Environmental Planning & Assessment (Development Certification and Fire Safety) Regulation 2021

This document answers frequently asked questions regarding the introduction of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

### What provisions are in the new Regulation?

The existing building certification, subdivision and fire safety provisions that were in the *Environmental Planning & Assessment Regulation 2000* have been transferred to the new Regulation. This includes provisions for construction certificates, occupation certificates, subdivision works certificates, subdivision certificates, fire safety requirements and penalty provisions.

### When does the new Regulation commence?

The new Regulation will commence on 1 January 2022.

Any applications for construction certificates or occupation certificates that were lodged but not determined before that date will continue to be subject to the provisions in the EP&A Regulation 2000.

### What has changed?

Minor updates have been made to the provisions transferred from the EP&A Regulation 2000. The key changes made are:

- amendments to construction certificate and occupation certificate clauses to align with new requirements for the development and documentation of performance solutions in the National Construction Code that commenced on 1 July 2021;
- application of CPI adjustments for fees and charges; and
- restructuring and rewriting of the provisions to make them simpler without changing the intended outcome.

### What changes have been made to the EP&A Regulation 2000?

The existing EP&A Regulation will be amended as follows:

- deletion of the transferred provisions and definitions
- amendments to complying development clauses to align with new requirements for the development and documentation of performance solutions in the National Construction Code that commenced on 1 July 2021
- deletion of Division 7B of Part 9 of the EP&A Regulation which required the installation of fire sprinklers in residential aged care facilities because the completion date for installation has now passed and the program is complete
- deletion of savings and transitional clauses that are no longer necessary, and

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- insertion of a new transition clause for the commencement of the proposed Regulation.

## What changes have been made to the EP&A (Savings, Transitional and Other Provisions) Regulation 2017?

An amendment to the [Environmental Planning and Assessment \(Savings, Transitional and Other Provisions\) Regulation 2017](#) has been made which will commence upon publication of the new Regulation. The changes are:

1. deletion of Clause 18D Acceptance by certifiers of accredited building products which means that certifiers can continue to issue construction certificates for developments involving building products or systems that are certified under the CodeMark scheme; and
2. postponement of the lapsing date of Clauses 18B, 18BA and 18C, which permit subdivision certificates to be issued by Transport for NSW, port authorities and the Minister for Planning in certain locations.

## Where can I find the new provisions?

The new Regulation will be published on the [NSW Legislation website](#).

A table listing the existing clause numbers of the EP&A Regulation 2000 and the corresponding numbers of the new Regulation is available [here](#).

## Why has the new Regulation been made?

The [Independent Review of the Building Professionals Act 2005](#) (the Lambert report) found that the fragmentation of provisions dealing with building regulation in the *Environmental Planning and Assessment Act 1979* made navigation of the provisions and understanding of the requirements difficult from a user perspective.

In response to the Lambert Report, the building and subdivision provisions in the Act were consolidated into a single part (Part 6) of that Act in 2018. The new Regulation will support the operation of Part 6 of the Act and is the final step in consolidating building and subdivision regulations as recommended by the Lambert Report.

## Where can I get more information?

Questions regarding the provisions of the new Regulation can be sent to [legislativeupdates@planning.nsw.gov.au](mailto:legislativeupdates@planning.nsw.gov.au)

General information and advice on the Building Code of Australia and related matters can be obtained from the Building Code Advisory Service operated by the Department of Customer Service. This service operates between 9.30am and 11.30am on Tuesdays, Wednesdays and Thursdays and can be contacted on **(02) 9372 9271**.