



New South Wales

State Environmental Planning Policy (Affordable Rental Housing) Amendment 2011

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

BRAD HAZZARD, MP
Minister for Planning and Infrastructure

State Environmental Planning Policy (Affordable Rental Housing) Amendment 2011

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1 Name of Policy

This Policy is *State Environmental Planning Policy (Affordable Rental Housing) Amendment 2011*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

Schedule 1 **Amendment of State Environmental Planning Policy (Affordable Rental Housing) 2009**

[1] **Clause 4 Interpretation—general**

Insert in alphabetical order in clause 4 (1):

accessible area means land that is within:

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or
- (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the *Passenger Transport Act 1990*) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

walking distance means the shortest distance between 2 points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings.

[2] **Clause 10**

Omit clauses 10–12. Insert instead:

10 Development to which Division applies

- (1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:
 - (a) the development concerned is permitted with consent under another environmental planning instrument, and
 - (b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the *Heritage Act 1977*.
- (2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.

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- (3) Despite subclause (1), this Division does not apply to development on land that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to any of those zones.

[3] Clause 13 Floor space ratios

Omit clause 13 (1) and the note to that subclause. Insert instead:

- (1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.

[4] Clause 13 (2)

Omit “percentage of dwellings in the residential flat building that are” wherever occurring.

Insert instead “percentage of the gross floor area of the development that is”.

[5] Clause 13 (2), examples

Omit the examples.

[6] Clause 13 (3)

Insert after clause 13 (2):

- (3) In this clause, **gross floor area** does not include any car parking (including any area used for car parking).

Note. Other areas are also excluded from the gross floor area, see the definition of **gross floor area** contained in the standard instrument under the *Standard Instrument (Local Environmental Plans) Order 2006*.

[7] Clause 14 Standards that cannot be used to refuse consent

Omit the heading to clause 14 (1). Insert instead:

Site and solar access requirements

[8] Clause 14 (1)

Omit “referred to in clause 11 (a)”.

Insert instead “to which this Division applies”.

[9] Clause 14 (1) (a)

Omit the paragraph.

[10] Clause 14 (2) (a)

Omit the paragraph. Insert instead:

(a) **parking**

if:

- (i) in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or
- (ii) in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,

[11] Clause 16A

Insert after clause 16:

16A Character of local area

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

[12] Clause 27 Development to which Division applies

Insert at the end of clause 27:

- (2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.
- (3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.

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[13] **Clause 29 Standards that cannot be used to refuse consent**

Omit clause 29 (2) (e). Insert instead:

(e) **parking**

if:

- (i) in the case of development in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and
- (ii) in the case of development not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and
- (iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,

[14] **Clause 30 Standards for boarding houses**

Omit clause 30 (1) (f).

[15] **Clause 30A**

Insert after clause 30:

30A Character of local area

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

[16] **Clause 40 Development may be carried out without consent**

Omit clause 40 (1) (a). Insert instead:

- (a) residential development, if any building will have a height of 8.5 metres or less and the development will result in 20 dwellings or less on a single site and the provision of not less than the following parking spaces:
 - (i) for development on land in an accessible area—0.4 parking spaces for each dwelling containing 1 bedroom, 0.5 parking spaces for each dwelling containing 2 bedrooms and 1 parking space for each dwelling containing 3 or more bedrooms, or

- (ii) for development that is not in an accessible area—
0.5 parking spaces for each dwelling containing
1 bedroom, 1 parking space for each dwelling
containing 2 bedrooms and 1.5 parking spaces for
each dwelling containing 3 or more bedrooms,

[17] Clause 40 (4) (a)

Insert “, to any other person nominated for that purpose by that council” after
“located”.

[18] Clause 40 (4) (aa)

Insert before clause 40 (4) (a):

- (aa) before or after giving written notice to the council for the
area under this subclause, request the council to nominate
any other persons who should, in the council’s opinion, be
notified of the development, and

[19] Clause 54A

Insert after clause 54:

54A Savings and transitional provisions—2011 amendment

- (1) Division 1 of Part 2, as in force before its amendment by *State Environmental Planning Policy Amendment (Affordable Rental Housing) 2011* (the **amending SEPP**), continues to apply to development, if:
 - (a) the land on which the development is situated is owned by the Land and Housing Corporation and was owned by that Corporation immediately before the amendment, and
 - (b) the development is commenced not later than 2 years after the amendment.
- (2) If a development application (an **existing application**) has been made before the commencement of the amending SEPP in relation to development to which this SEPP applied before that commencement, the application may be determined as if the amending SEPP had not been made.
- (3) If an existing application relates to development to which Division 1 or 3 of Part 2 applied, the consent authority must not consent to the development unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

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- (4) Despite subclause (2), clause 13 (2) (as in force before the amendments made by the amending SEPP) does not apply to development the subject of an existing application and any such application is to be determined by applying instead clause 13 (2) and (3) as inserted by the amending SEPP.