



New South Wales

State Environmental Planning Policy Amendment (Social Housing) 2020

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*.

ROB STOKES, MP
Minister for Planning and Public Spaces

State Environmental Planning Policy Amendment (Social Housing) 2020

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1 Name of Policy

This Policy is *State Environmental Planning Policy Amendment (Social Housing) 2020*.

2 Commencement

- (1) Subject to subclause (2), this Policy commences on the day on which it is published on the NSW legislation website.
- (2) Schedule 1 commences on 1 February 2021.

3 Repeal of Policy

This Policy is repealed on the day following the day on which this Policy commences.

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

[1] Clause 4 Interpretation—general

Omit the definition of *Sydney region*. Insert in alphabetical order—

Codes SEPP means *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Greater Sydney region means—

- (a) the region comprising the local government areas within the boundary shown on the map in Schedule 1 to the *Greater Sydney Commission Act 2015*, and
- (b) the region comprising the Central Coast local government area.

Low Rise Housing Diversity Design Guide has the same meaning as in the Codes SEPP.

manor house and *multi dwelling housing (terraces)* have the same meanings as they have in the Codes SEPP.

[2] Clause 10

Omit the clause. Insert instead—

10 Development to which Division applies

- (1) This Division applies to residential development if—
 - (a) the development 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, an interim heritage order or on the State Heritage Register under the *Heritage Act 1977*, and
 - (c) 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%, and
 - (d) for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area, and
 - (e) for development on other land—all or part of the development is within 400 metres walking distance of land within Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to those zones.
- (2) In this clause—

Newcastle region means land within the following local government areas—

 - (a) Cessnock,
 - (b) Lake Macquarie,
 - (c) Maitland,
 - (d) Newcastle,
 - (e) Port Stephens.

residential development means development for the following purposes—

 - (a) attached dwellings,
 - (b) dual occupancies,
 - (c) dwelling houses,

- (d) manor houses,
- (e) multi dwelling housing,
- (f) multi dwelling housing (terraces),
- (g) residential flat buildings,
- (h) semi-detached dwellings.

Wollongong region means land within the following local government areas—

- (a) Kiama,
- (b) Shellharbour,
- (c) Wollongong.

[3] Clause 13 Floor space ratios

Omit clause 13(1).

[4] Clause 13(2)

Omit “the development to which this clause”.

Insert instead “development to which this Division”.

[5] Clause 15 Design requirements

Omit clause 15(1). Insert instead—

- (1) A consent authority must not consent to development to which this Division applies unless it has taken into consideration the following, to the extent to which they are consistent with this Policy—
 - (a) the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004,
 - (b) for development for the purposes of manor houses or multi dwelling housing (terraces)—the Low Rise Housing Diversity Design Guide.

[6] Clauses 27, 34 and 51

Omit “Sydney region” wherever occurring. Insert instead “Greater Sydney region”.

[7] Clause 40 Development may be carried out without consent

Omit “20” from clause 40(1)(a). Insert instead “60”.

[8] Clause 40(2)(b)

Omit the paragraph.

[9] Clause 40(4) and (5)

Omit the subclauses.

[10] Clause 40A

Insert after clause 40—

40A Requirements for carrying out residential development

- (1) This clause applies to residential development referred to in clause 40(1)(a).
- (2) Before carrying out the residential development, the Land and Housing Corporation must—

- (a) request the council to nominate a person or persons who should, in the council's opinion, be notified of the development, and
 - (b) give written notice of the intention to carry out the development to the council, to the person or persons nominated by the council and to the occupiers of adjoining land, and
 - (c) take into account responses, if any, to the notice that are received within 21 days after the notice is given, and
 - (d) take into account the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004, to the extent that it is not inconsistent with this Policy, and
 - (e) consider the *Good Design for Social Housing* and the *Land and Housing Corporation Dwelling Requirements*, published in September 2020 on the website of the Land and Housing Corporation, to the extent that they are not inconsistent with this Policy, and
 - (f) if the development is for the purposes of a manor house or multi dwelling housing (terraces)—consider the provisions of Part 3B of the Codes SEPP, to the extent to which they apply to the development.
- (3) Clauses 16 and 17 of *State Environmental Planning Policy (Infrastructure) 2007* apply to the residential development and, in the application of the clauses, a reference in the clauses to—
- (a) that Policy is taken to be a reference to clause 40 of this Policy, and
 - (b) a public authority is taken to be a reference to the Land and Housing Corporation.
- (4) In this clause, a reference to the council is a reference to the council for the land on which the development is proposed to be located.

[11] Clause 47 Interpretation

Omit the definitions of *low-rental dwelling* and *low-rental residential building* from clause 47(1).

Insert instead—

low-rental dwelling means a dwelling that was let at a rental not exceeding the median rental level at any time during the relevant period, as specified in the Rent and Sales Report, in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area.

low-rental residential building means a building used, during the relevant period, as a residential flat building containing a low-rental dwelling or as a boarding house, and includes a building that—

- (a) is lawfully used as a residential flat building containing a low-rental dwelling or as a boarding house, irrespective of the purpose for which the building may have been erected, or
- (b) was used as a residential flat building containing a low-rental dwelling or as a boarding house, but that use has been changed unlawfully to another use, or
- (c) is vacant, but the last significant use of which was as a residential flat building containing a low-rental dwelling or as a boarding house.

[12] Clause 47(1), definition of “relevant period”

Insert in alphabetical order—

relevant period means the period commencing 5 years before the day on which the development application involving the building is lodged and ending on that day.

[13] Clause 47(2)

Omit the subclause.

[14] Clause 48 Land to which Part applies

Omit the clause.

[15] Clause 49 Buildings to which Part applies

Omit clause 49(1). Insert instead—

- (1) This Part applies to a low-rental residential building on land within the following areas—
 - (a) the Greater Sydney region,
 - (b) the local government area of Newcastle,
 - (c) the local government area of Wollongong.

Schedule 2 Amendment of State Environmental Planning Policy (State and Regional Development) 2011

Schedule 1 State significant development—general

Insert at the end of the Schedule, with appropriate clause numbering—

Development for purposes of residential development by or on behalf of New South Wales Land and Housing Corporation

Development carried out under clause 40 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* by or on behalf of the New South Wales Land and Housing Corporation if the development has a capital investment value of more than \$100 million.