



New South Wales

State Environmental Planning Policy (Housing) Amendment 2022

under the

Environmental Planning and Assessment Act 1979

His Honour the Administrator, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ANTHONY ROBERTS, MP
Minister for Planning

State Environmental Planning Policy (Housing) Amendment 2022

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1 Name of Policy

This Policy is *State Environmental Planning Policy (Housing) Amendment 2022*.

2 Commencement

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

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This Policy is repealed on the day following the day on which this Policy commences.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 (Housing) 2021

[1] Section 13A

Insert before section 13—

13A Definition

In this Chapter—

relevant authority means—

- (a) the Aboriginal Housing Office, or
- (b) the Land and Housing Corporation.

[2] Section 16 Development to which Division applies

Omit “400m” from section 16(1)(d). Insert instead “800m”.

[3] Sections 16(2), 21(2), 26(2), 37(1)(b) and 40(2)

Omit “the Land and Housing Corporation” wherever occurring.
Insert instead “a relevant authority”.

[4] Section 16(3), definition of “residential development”

Insert at the end of the definition—

- (i) shop top housing.

[5] Section 25 Standards for boarding houses

Insert at the end of section 25(1)(h)(ii)—

, and

- (i) the boarding house will include adequate bicycle and motorcycle parking spaces.

[6] Section 25(2)(c)–(e)

Omit “and” from the end of section 25(2)(c) and omit section 25(2)(d) and (e).

[7] Chapter 2, Part 2, Division 3, heading

Insert “**Aboriginal Housing Office and**” after “**houses—**”.

[8] Section 29 Boarding houses permitted without development consent

Omit “the Land and Housing Corporation without” from section 29(1).

Insert instead “a relevant authority without”.

[9] Sections 29(1)(b)

Omit “the Land and Housing Corporation”. Insert instead “the relevant authority”.

[10] Section 29(2)

Omit the subsection. Insert instead—

- (2) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 2.15 and 2.17 apply to the development and, in the application of the sections—

- (a) a reference in section 2.15 to “this Chapter” is taken to be a reference to this section, and
- (b) a reference in the sections to a public authority is taken to be a reference to the relevant authority.

[11] Section 30 Requirements before carrying out development

Omit “the Land and Housing Corporation must” from section 30(1).

Insert instead “a relevant authority must”.

[12] Section 30(1)(c1)

Insert after section 30(1)(c)—

- (c1) if the relevant authority is the Aboriginal Housing Office—consider the relevant provisions of the *Aboriginal Housing Design Guidelines*, published by the Aboriginal Housing Office in January 2020, and

[13] Section 30(1)(d)

Omit the paragraph. Insert instead—

- (d) if the relevant authority is the Land and Housing Corporation—consider the relevant provisions of—
 - (i) *Good Design for Social Housing*, published by the Land and Housing Corporation in September 2020, and
 - (ii) *Land and Housing Corporation Dwelling Requirements*, published by the Land and Housing Corporation in September 2020.

[14] Section 31 Exempt development

Omit “the Land and Housing Corporation”.

Insert instead “a relevant authority”.

[15] Chapter 2, Part 2, Division 6, heading

Insert “**Aboriginal Housing Office and**” after “**development—**”.

[16] Sections 42(4) and 44

Omit “the Land and Housing Corporation” wherever occurring.

Insert instead “a relevant authority”.

[17] Section 42 Development may be carried out without consent

Omit section 42(5). Insert instead—

- (5) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 2.15 and 2.17 apply to the development and, in the application of the sections—
 - (a) a reference in section 2.15 to “this Chapter” is taken to be a reference to this section, and
 - (b) a reference in the sections to a public authority is taken to be a reference to the relevant authority.

[18] Section 43 Requirements for carrying out residential development

Omit “the Land and Housing Corporation must” from section 43(1).

Insert instead “a relevant authority must”.

[19] Section 43(1)(d)–(g)

Omit section 43(1)(d)–(f). Insert instead—

- (d) take into account the relevant provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development*, published by the Department in March 2004, and
- (e) if the relevant authority is the Aboriginal Housing Office—consider the relevant provisions of the *Aboriginal Housing Design Guidelines*, published by the Aboriginal Housing Office in January 2020, and
- (f) if the relevant authority is the Land and Housing Corporation—consider the relevant provisions of—
 - (i) *Good Design for Social Housing*, published by the Land and Housing Corporation in September 2020, and
 - (ii) *Land and Housing Corporation Dwelling Requirements*, published by the Land and Housing Corporation in September 2020, and
- (g) if the development is for the purposes of manor houses or multi dwelling housing (terraces)—consider the relevant provisions of the Codes SEPP, Part 3B.

[20] Section 44 Exempt development

Omit “*Environmental Planning and Assessment Regulation 2000*” from section 44(1).

Insert instead “*Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*”.

[21] Section 61 Development in prescribed zones

Omit “*State Environmental Planning Policy (Infrastructure) 2007*, Part 2, Division 1” and “this Policy” from section 61(2).

Insert instead “*State Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.2, Division 1” and “this Chapter”, respectively.

[22] Section 63 Exempt development—existing group homes

Omit “*State Environmental Planning Policy (Infrastructure) 2007*, Schedule 1,” from section 63(1).

Insert instead “*State Environmental Planning Policy (Transport and Infrastructure) 2021*, Schedule 1”.

[23] Section 63(1)(b)

Omit “*State Environmental Planning Policy (Infrastructure) 2007*, clause 20(2)”.

Insert instead “*State Environmental Planning Policy (Transport and Infrastructure) 2021*, section 2.20(2)”.

[24] Section 69 Standards for co-living housing

Omit section 69(1)(b)(i)–(iii). Insert instead—

- (i) for development on land in Zone R2 Low Density Residential—600m², or
- (ii) for development on other land—800m², and

[25] Section 69(1)(h)

Insert at the end of section 69(1)(g)—

, and

- (h) the co-living housing will include adequate bicycle and motorcycle parking spaces.

[26] Section 69(2)(d) and (e)

Omit the paragraphs.

[27] Section 73 Conditions of build-to-rent housing to apply for at least 15 years

Omit section 73(2).

[28] Section 80 Land to which Part does not apply—general

Omit “*State Environmental Planning Policy (Coastal Management) 2018*” from section 80(2)(a).

Insert instead “*State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 2*”.

[29] Section 82 Definitions

Insert “(existing)” after “ground level” in the definition of *gross floor area*, paragraph (f).

[30] Section 84 Development standards—general

Insert “the Aboriginal Housing Office or” before “the Land and Housing Corporation” in section 84(4)(a).

[31] Section 86, heading

Omit “, **RU5 and R2**”. Insert instead “**and RU5**”.

[32] Section 86(1)(d) and (3)

Omit the provisions.

[33] Chapter 3, Part 5, Division 8, heading

Insert “**Aboriginal Housing Office and**” after “**housing—**”.

[34] Section 108AA

Insert before section 108A—

108AA Definition

In this Division—

relevant authority means—

- (a) the Aboriginal Housing Office, or
(b) the Land and Housing Corporation.

[35] Section 108B Seniors housing permitted without development consent

Omit “the Land and Housing Corporation without” from section 108B(1).

Insert instead “a relevant authority without”.

[36] Section 108B(1)(a)

Omit “the Land and Housing Corporation”. Insert instead “the relevant authority”.

[37] Section 108B(1)(b)

Omit the paragraph. Insert instead—

- (b) the development will not result in a building with a height of more than—
 - (i) 9.5m, or
 - (ii) if the roof of the building contains servicing equipment resulting in the building having a height of more than 9.5m and the servicing equipment complies with section 84(3)—11.5m, and

[38] Section 108B(2)

Omit the subsection. Insert instead—

- (2) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 2.15 and 2.17 apply to the development and, in the application of the clauses—
 - (a) a reference in section 2.15 to “this Chapter” is taken to be a reference to this section, and
 - (b) a reference in the sections to a public authority is taken to be a reference to the relevant authority.

[39] Sections 108C Requirements for carrying out seniors housing

Omit “the Land and Housing Corporation must” from section 108C(1).

Insert instead “a relevant authority must”.

[40] Section 108C(1)(d) and (e)

Omit section 108C(1)(d) and (e). Insert instead—

- (d) take into account the relevant provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development*, published by the Department in March 2004, and
- (d1) if the relevant authority is the Aboriginal Housing Office—consider the relevant provisions of the *Aboriginal Housing Design Guidelines*, published by the Aboriginal Housing Office in January 2020, and
- (e) if the relevant authority is the Land and Housing Corporation—consider the relevant provisions of—
 - (i) *Good Design for Social Housing*, published by the Land and Housing Corporation in September 2020, and
 - (ii) *Land and Housing Corporation Dwelling Requirements*, published by the Land and Housing Corporation in September 2020, and

[41] Section 108D Exempt development

Omit “the Land and Housing Corporation”. Insert instead “a relevant authority”.

[42] Section 113 General requirements

Omit “*Environmental Planning and Assessment Regulation 2000*, clause 186X” from section 113(e).

Insert instead “*Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 102C”.

[43] Section 113(g), note

Omit “*Environmental Planning and Assessment Regulation 2000, Part 9*”.

Insert instead “*Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*”.

[44] Schedule 1 Complying development—secondary dwellings

Omit “section 53(2)(d)”. Insert instead “section 54(2)(d)”.

[45] Schedule 1, section 4(2)

Omit “The floor area of a principal dwelling”.

Insert instead “The total floor area of a principal dwelling, secondary dwelling and all attached ancillary structures”.

[46] Schedule 3 Environmentally sensitive land

Omit “*State Environmental Planning Policy (Coastal Management) 2018*” wherever occurring.

Insert instead “*State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 2*”.

[47] Schedules 9–11

Omit the Schedules.

[48] Dictionary

Insert in alphabetical order—

Aboriginal Housing Office means the Aboriginal Housing Office constituted by the *Aboriginal Housing Act 1998*, section 6.

relevant authority means—

- (a) for Chapter 2—see section 13A, and
- (b) for Chapter 3, Division 8—see section 108AA.

Schedule 2 Amendment of State Environmental Planning Policy (Planning Systems) 2021

Schedule 1 State significant development—general

Omit “\$100 million” and “\$50 million” from section 27(1)(a).

Insert instead “\$50 million” and “\$30 million”, respectively.