



New South Wales

State Environmental Planning Policy (Housing) Amendment (Transport Oriented Development) 2024

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*.

PAUL SCULLY, MP
Minister for Planning and Public Spaces

State Environmental Planning Policy (Housing) Amendment (Transport Oriented Development) 2024

under the

Environmental Planning and Assessment Act 1979

1 Name of policy

This policy is *State Environmental Planning Policy (Housing) Amendment (Transport Oriented Development) 2024*.

2 Commencement

This policy commences on 13 May 2024 and is required to be published on the NSW legislation website.

3 Repeal of policy

This policy is repealed at the beginning of the day following the day on which this policy commences.

Schedule 1 Amendment of State Environmental Planning Policy (Housing) 2021

[1] Sections 9(2)(i) and 15C(2)

Omit “within the meaning of the Act, Division 7.1” wherever occurring.

[2] Section 15C Development to which division applies

Insert “, Chapter 5” after “Part 4” in section 15C(1)(a).

[3] Section 15C(2)

Insert “chapter of this policy, another” after “under another”.

[4] Section 33 Land to which Division applies

Omit “which development for the purposes of residential flat buildings or boarding houses is permissible under another environmental planning instrument.”.

Insert instead—

which—

- (a) development for the purposes of boarding houses is permissible under another environmental planning instrument, or
- (b) development for the purposes of residential flat buildings is permissible under Chapter 5 or another environmental planning instrument.

[5] Section 42 Development to which division applies

Insert “Chapter 5 or” after “under” in section 42(1)(a).

[6] Section 67 Co-living housing may be carried out on certain land with consent

Omit “which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument.”.

Insert instead—

which—

- (a) development for the purposes of co-living housing is permitted under another environmental planning instrument, or
- (b) development for the purposes of residential flat buildings or shop top housing is permitted under Chapter 5 or another environmental planning instrument.

[7] Section 72 Development for the purposes of build-to-rent housing permitted with consent

Insert after section 72(2)(a)—

- (a1) in a Transport Oriented Development Area under Chapter 5 in which development for the purposes of residential flat buildings is permissible, or

[8] Section 74 Non-discretionary development standards—the Act, s 4.15

Insert “Chapter 5 or” after “under” wherever occurring in section 74(2)(a) and (c).

[9] Section 87 Additional floor space ratios

Insert “Chapter 5 or” after “under” in section 87(1)(a).

[10] Section 116 Conversion of serviced apartments to residential flat buildings or shop top housing

Insert “Chapter 5 or” after “under” wherever occurring in section 116(1)(a) and (b).

[11] Section 144 Application of chapter

Insert “or Chapter 5” after “Division 1, 5 or 6” in section 144(6).

[12] Chapter 5

Insert after Chapter 4—

Chapter 5 Transport oriented development

150 Aims of chapter

The aims of this chapter are as follows—

- (a) to increase housing density within 400m of existing and planned public transport,
- (b) to deliver mid-rise residential flat buildings and shop top housing around rail and metro stations that—
 - (i) are well designed, and
 - (ii) are of appropriate bulk and scale, and
 - (iii) provide amenity and liveability,
- (c) to encourage the development of affordable housing to meet the needs of essential workers and vulnerable members of the community.

151 Definitions

In this chapter—

relevant employment zone—

- (a) means the following—
 - (i) Zone E1 Local Centre,
 - (ii) Zone E2 Commercial Centre,
 - (iii) for land in the Canterbury-Bankstown local government area—Zone B2 Local Centre,
 - (iv) for land in the Gosford city centre under *State Environmental Planning Policy (Precincts—Regional) 2021*, Chapter 5—Zone B3 Commercial Core, and
- (b) includes an equivalent land use zone.

relevant residential zone —

- (a) means the following—
 - (i) Zone R1 General Residential,
 - (ii) Zone R2 Low Density Residential,
 - (iii) Zone R3 Medium Density Residential,
 - (iv) Zone R4 High Density Residential, and
- (b) includes an equivalent land use zone.

Transport Oriented Development Area means land identified as a “Transport Oriented Development Area” on the Transport Oriented Development Sites Map.

Transport Oriented Development Sites Map means the State Environmental Planning Policy (Housing) 2021 Transport Oriented Development Sites Map.

152 Land to which chapter applies

This chapter applies to land in the following local government areas that is in a Transport Oriented Development Area—

- (a) Bayside,
- (b) Burwood,
- (c) Canada Bay,
- (d) Canterbury-Bankstown,
- (e) Central Coast,
- (f) Cumberland,
- (g) Georges River,
- (h) Inner West,
- (i) Ku-ring-gai,
- (j) City of Lake Macquarie,
- (k) City of Newcastle,
- (l) City of Penrith,
- (m) City of Wollongong.

Note— A Transport Oriented Development Area is generally land within 400m of a railway or metro station in a local government area to which this chapter applies. When this chapter commenced, a Transport Oriented Development Area was not identified on the Transport Oriented Development Sites Map for each local government area.

153 Relationship to other environmental planning instruments

If there is an inconsistency between this chapter and another provision of this or another environmental planning instrument, whether made before or after the commencement of this chapter, this chapter prevails to the extent of the inconsistency.

154 Development permitted with development consent in Transport Oriented Development Areas

- (1) Development for the purposes of residential flat buildings is permitted with development consent on land in the following zones in a Transport Oriented Development Area—
 - (a) a relevant residential zone,
 - (b) Zone E1 Local Centre or an equivalent land use zone,
 - (c) for land in the Canterbury-Bankstown local government area—Zone B2 Local Centre.
- (2) Development for the purposes of shop top housing is permitted with development consent on land in a relevant employment zone in a Transport Oriented Development Area.

155 Maximum building height and maximum floor space ratio

- (1) This section identifies development standards for development under this chapter that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.

- (2) The maximum building height for a residential flat building in a Transport Oriented Development Area is 22m.
- (3) The maximum building height for a building containing shop top housing in a Transport Oriented Development Area is 24m.
- (4) The maximum floor space ratio for a residential flat building or a building containing shop top housing in a relevant residential zone or relevant employment zone in a Transport Oriented Development Area is 2.5:1.
- (5) This section does not apply to the extent a provision of another chapter of this policy or another environmental planning instrument permits a greater maximum building height or floor space ratio for a residential flat building or building containing shop top housing on the land.

156 Affordable housing

- (1) This section applies to development for the purposes of residential flat buildings or shop top housing in a Transport Oriented Development Area if the building has a gross floor area of at least 2000m².
- (2) Development consent must not be granted unless the consent authority is satisfied that—
 - (a) at least 2% of the gross floor area of the building will be used for affordable housing, and
 - (b) the affordable housing will be managed by a registered community housing provider in perpetuity.
- (3) A requirement under a provision of another chapter of this policy, another environmental planning instrument or a planning agreement that requires the development to provide more affordable housing prevails over this section.
- (4) Affordable housing provided as part of the development because of a requirement under another chapter of this policy, another environmental planning instrument or a planning agreement is not counted towards the affordable housing required under this section.

157 Affordable housing parking spaces

- (1) This section identifies a development standard for development under this chapter that, if complied with, prevents the consent authority from requiring more onerous standards for the matters.
Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.
- (2) Development to which section 156 applies must provide the following number of parking spaces for each affordable housing dwelling required under that section—
 - (a) for each dwelling containing 1 bedroom—0.4 parking space,
 - (b) for each dwelling containing 2 bedrooms—0.5 parking space,
 - (c) for each dwelling containing 3 or more bedrooms—1 parking space.
- (3) This section prevails over a provision in another chapter of this policy or another environmental planning instrument to the extent that other provision permits a lower number of parking spaces for dwellings used for affordable housing on the land.

158 Exception to minimum lot size

- (1) This section applies if another environmental planning instrument applying to the land specifies a minimum lot size for development for the purposes of residential flat buildings or shop top housing (a *minimum lot size restriction*).
- (2) Development consent may be granted to development for the purposes of residential flat buildings or shop top housing on land in a Transport Oriented Development Area, despite a minimum lot size restriction.

159 Minimum lot width

Development consent must not be granted to development for the purposes of residential flat buildings or shop top housing on a lot in a Transport Oriented Development Area, unless the lot is at least 21m wide at the front building line.

160 Active street frontages

- (1) The objective of this section is to ensure active street frontages for residential flat buildings in Zone E1 Local Centre in Transport Oriented Development Areas to encourage the presence and movement of people.
- (2) This section applies to development for the purposes of residential flat buildings on land in the following zones in a Transport Oriented Development Area—
 - (a) Zone E1 Local Centre or an equivalent land use zone,
 - (b) for land in the Canterbury-Bankstown local government area—Zone B2 Local Centre.
- (3) Development consent must not be granted unless the consent authority is satisfied the building will have an active street frontage.
- (4) A residential flat building has an active street frontage if the ground floor has building design elements that encourage interaction between the inside of the building and the external public areas adjoining the building.
- (5) This section prevails over a provision of another environmental planning instrument that requires an active street frontage for development on land to which this section applies.

161 Consideration of Apartment Design Guide

Development consent must not be granted for development for the purposes of residential flat buildings or shop top housing on land in a Transport Oriented Development Area unless the consent authority has considered the Apartment Design Guide.

[13] Schedule 7A Savings and transitional provisions

Insert at the end of the schedule, with appropriate section numbering—

State Environmental Planning Policy (Housing) Amendment (Transport Oriented Development) 2024

An amendment made to this policy by *State Environmental Planning Policy (Housing) Amendment (Transport Oriented Development) 2024* does not apply to—

- (a) a development application made, but not determined, on or before 13 May 2024, or
- (b) a modification application made after 13 May 2024, if it relates to a development consent granted on or before 13 May 2024.

[14] Schedule 10 Dictionary

Insert “Chapter 5, where relevant,” after “under” in the definitions of *maximum permissible building height* and *maximum permissible floor space ratio*.

[15] Schedule 10, definition of “planning agreement”

Insert in alphabetical order—

planning agreement has the same meaning as in the Act, Division 7.1.