



New South Wales

State Environmental Planning Policy Amendment (Bella Vista and Kellyville Transport Oriented Development Precincts) 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 Amendment (Bella Vista and Kellyville Transport Oriented Development Precincts) 2024

under the

Environmental Planning and Assessment Act 1979

1 Name of policy

This policy is *State Environmental Planning Policy Amendment (Bella Vista and Kellyville Transport Oriented Development Precincts) 2024*.

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This policy is repealed at the beginning of the day following the day on which this policy commences.

4 Maps

The maps adopted by the *The Hills Local Environmental Plan 2019* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this policy.

Schedule 1 Amendment of The Hills Local Environmental Plan 2019

[1] Clause 1.8A Savings provisions relating to development applications

Insert after clause 1.8A(4)—

- (5) A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Bella Vista and Kellyville Transport Oriented Development Precincts) 2024* must be determined as if that policy had not commenced.

[2] Part 7 Additional local provisions

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

Bella Vista and Kellyville Transport Oriented Development Precincts Design Guide

- (1) This clause applies to land identified as “Area 3” on the Clause Application Map.
- (2) Development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the *Bella Vista and Kellyville Transport Oriented Development Precincts Design Guide*.

Affordable housing

- (1) In this clause, *The Hills Shire Affordable Housing Principles* are as follows—
 - (a) affordable housing must be provided and managed to accommodate a diverse residential population in areas representative of all income groups in The Hills Shire,
 - (b) affordable housing must be rented to tenants at rents that do not exceed a benchmark of 30% of actual household income,
 - (c) dwellings provided for affordable housing must be managed to maintain their continued use as affordable housing,
 - (d) the Council must use the following, received by or on behalf of the Council, to improve or replace, or provide additional affordable housing in The Hills Shire—
 - (i) rent from affordable housing, excluding landlords’ expenses, such as management and maintenance costs and rates and taxes payable in connection with the dwellings,
 - (ii) money from the disposal of affordable housing,
 - (e) affordable housing must consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with the same type of dwellings forming part of the development that are not intended to be used as affordable housing, particularly in relation to internal fittings and finishes, solar access and privacy.
- (2) This clause applies to development on land identified as an “Area” on the Affordable Housing Map resulting in—
 - (a) the erection of a new building with more than 200m² of gross floor area used for the purposes of residential accommodation, or
 - (b) alterations to an existing building that results in at least 200m² of additional gross floor area used for the purposes of residential accommodation.

- (3) This clause does not apply to development for the purposes of boarding houses, community housing, group homes, hostels or public housing.
- (4) Development consent must not be granted to development to which this clause applies unless the consent authority has considered the following—
 - (a) The Hills Shire Affordable Housing principles,
 - (b) the impact of the development on the existing mix and likely future mix of residential accommodation in The Hills Shire.
- (5) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring an affordable housing contribution equivalent to the contribution specified in subclause (6).
- (6) The contribution for development is the amount of gross floor area equivalent to the percentage, shown for the land on the Affordable Housing Map, of the gross floor area of the residential component of the development.
- (7) A condition imposed under this clause must permit a person to satisfy the condition by—
 - (a) a dedication, in favour of the Council, of land comprising 1 or more dwellings, each having a gross floor area of at least 50m² and a monetary contribution paid to the Council for any remainder, or
 - (b) a monetary contribution paid to the Council of equivalent value to the gross floor area specified in subclause (6).
- (8) The rate at which a monetary contribution is taken to be equivalent to floor area for the purposes of this clause must be calculated by reference to the market value of dwellings of a similar size to the dwellings in the proposed development.
- (9) In this clause—

community housing has the same meaning as in the *Community Housing Providers National Law (NSW)*.

public housing has the same meaning as in the *Housing Act 2001*.

Development at 92 Balmoral Road, Bella Vista

- (1) This clause applies to Lot 3, DP 552746, 92 Balmoral Road, Bella Vista.
- (2) A building on land to which this clause applies may have a building height of up to 51.5m.
- (3) The floor space ratio of buildings on a site on land to which this clause applies may be up to 2:1.
- (4) Subclauses (2) and (3) do not apply unless the consent authority is satisfied—
 - (a) the development will be consistent with the *Bella Vista and Kellyville Transport Oriented Development Precincts Design Guide*, and
 - (b) at least 3,000m² of the land will be used for the purposes of a single public open space that is at ground level, and
 - (c) at least 50% of the public open space will receive at least 4 hours of direct sunlight between 9am and 3pm on 21 June each year.

Development at 88A Balmoral Road, Bella Vista

- (1) This clause applies to Lot 20, DP 1170934, 88A Balmoral Road, Bella Vista.

- (2) A building on land to which this clause applies may have a building height of up to 51.5m.
- (3) The floor space ratio of buildings on a site on land to which this clause applies may be up to 1.5:1.
- (4) Subclauses (2) and (3) do not apply unless the consent authority is satisfied that the development will include a pedestrian bridge that—
 - (a) crosses Elizabeth Macarthur Creek, and
 - (b) is built in a way consistent with the *Bella Vista and Kellyville Transport Oriented Development Precincts Design Guide*.

Development at 91 Balmoral Road, Bella Vista

- (1) This clause applies to Lot 6, DP 1203920, 91 Balmoral Road, Bella Vista.
- (2) A building on land to which this clause applies may have a building height of up to 51.5m.
- (3) The floor space ratio of buildings on a site on land to which this clause applies may be up to 1.85:1.
- (4) Subclauses (2) and (3) do not apply unless the consent authority is satisfied—
 - (a) the development will be consistent with the *Bella Vista and Kellyville Transport Oriented Development Precincts Design Guide*, and
 - (b) at least 1,500m² of the site area will be used for the purposes of a single public open space that is at ground level, and
 - (c) at least 50% of the public open space will receive at least 4 hours of direct sunlight between 9am and 3pm on 21 June each year.

Additional building height on certain land at Samantha Riley Drive, Kellyville

- (1) This clause applies to land identified as “Area M” on the Key Sites Map.
- (2) A building on land to which this clause applies may have a building height of up to the building height shown for the land on the Incentive Height of Buildings Map if the consent authority is satisfied that the land has been or will be consolidated into a single lot.

Development at Waddell Road and Free Settlers Drive, Bella Vista

- (1) This clause applies to land identified as “Area N” on the Key Sites Map.
- (2) A building on land to which this clause applies may have a building height of up to 22.5m.
- (3) The floor space ratio of buildings on a site on land to which this clause applies may be up to 1.2:1.
- (4) Subclauses (2) and (3) do not apply unless the consent authority is satisfied that the land has been or will be consolidated into a single lot.

[3] Clause 8.3

Omit the clause. Insert instead—

8.3 Site area of development includes dedicated land

- (1) This clause applies to the following land—
 - (a) Lot 10, DP 844963, Bella Vista,
 - (b) Lots 9 and 10, DP 1244850, 42 Balmoral Road, Bella Vista,

- (c) Lot 1, DP 1237055, 40 Memorial Avenue, Bella Vista,
 - (d) Lot 11, DP 1248362, 46 Memorial Avenue, Bella Vista,
 - (e) Lot 6, DP 1203920, 91 Balmoral Road, Kellyville,
 - (f) Lot 40, DP 1240383, 41 Memorial Avenue, Kellyville,
 - (g) Lots 140 and 141, DP 1121172, 43 and 45 Memorial Avenue, Kellyville,
 - (h) Lot 1410, DP 1249937, Old Windsor Road, Kellyville,
 - (i) Lot 1451, DP 1255091, Old Windsor Road, Kellyville.
- (2) The site area of proposed development on land to which this clause applies is, for the purpose of applying a floor space ratio under clause 4.5, taken to include land that—
- (a) is dedicated to the Council or a public authority for a public purpose, including roads, drainage or open space, and
 - (b) would have been part of the site area if the land had not been dedicated.

[4] Clause 8.9 Maximum number of dwellings

Omit the clause.

[5] Dictionary

Insert in alphabetical order—

Affordable Housing Map means the The Hills Local Environmental Plan 2019 Affordable Housing Map.

Bella Vista and Kellyville Transport Oriented Development Precincts Design Guide means the *Bella Vista and Kellyville Transport Oriented Development Precincts Design Guide* published by the Department in November 2024.

Incentive Height of Buildings Map means the The Hills Local Environmental Plan 2019 Incentive Height of Buildings Map.