



New South Wales

State Environmental Planning Policy Amendment (Housing) 2023

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 (Housing) 2023

under the

Environmental Planning and Assessment Act 1979

1 Name of policy

This policy is *State Environmental Planning Policy Amendment (Housing) 2023*.

2 Commencement

This policy commences as follows—

- (a) for Schedule 3.21[1]—on 30 June 2024,
- (b) otherwise—on the day this policy is published on the NSW legislation website.

3 Repeal of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development is repealed.

4 Repeal of policy

This policy is repealed at the beginning of the day after all the provisions of this policy have commenced.

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

[1] Section 4 Interpretation—general

Insert “in Schedule 10” after “Dictionary” in section 4(1).

[2] Sections 5(1)(a), 56(1) and (2) and 64(1)(b) and (3) and Schedule 2, section 20, note

Omit “*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*” wherever occurring.

Insert instead “the Codes SEPP”.

[3] Section 5(1)(b) and (2)(a)

Omit “relevant authority” wherever occurring. Insert instead “relevant public authority”.

[4] Section 5(4), definition of “relevant authority”

Omit “*relevant authority*”. Insert instead “*relevant public authority*”.

[5] Section 8 Relationship with other environmental planning instruments

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

State Environmental Planning Policy (Sustainable Buildings) 2022, Chapter 2 prevails over this policy, Chapter 4, to the extent of an inconsistency.

[6] Section 12A

Insert after section 12—

12A Limitation on additional floor space ratio

- (1) This section applies to development involving more than one of the following—
 - (a) development for the purposes of in-fill affordable housing under Chapter 2, Part 2, Division 1,
 - (b) development for the purposes of boarding houses under Chapter 2, Part 2, Division 2,
 - (c) development for the purposes of co-living housing under Chapter 3, Part 3,
 - (d) development for the purposes of seniors housing under Chapter 3, Part 5.
- (2) If the development proposes to use the additional floor space ratio permitted under more than one relevant provision, the maximum floor space ratio must not exceed 130% of the maximum permissible floor space ratio for the land.
- (3) In this section—
relevant provision means section 16, 17, 24(2)(a)(ii), 68(2)(a)(ii) or 87(2)(b).

[7] Section 13A

Omit the section. Insert instead—

13A Application of Chapter 4 to affordable housing

Development to which this chapter, Part 2, Division 1, 5 or 6 applies may also be residential apartment development under Chapter 4.

Note— See section 144(6).

[8] Chapter 2, Part 2, Division 1

Omit the division. Insert instead—

Division 1 In-fill affordable housing

15A Objective of division

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

15B Definitions

- (1) In this division—
- affordable housing component*, of development, means the percentage of the gross floor area used for affordable housing.
- 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,
 - (i) shop top housing.
- (2) In this division, residential development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation is taken to be used for the purposes of affordable housing.

15C Development to which division applies

- (1) This division applies to development that includes residential development if—
- (a) the development is permitted with consent under Chapter 3, Part 4 or another environmental planning instrument, and
 - (b) the affordable housing component is at least 10%, and
 - (c) all or part of the development is carried out—
 - (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or
 - (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.
- (2) Affordable housing provided as part of development because of a requirement under another environmental planning instrument or a planning agreement within the meaning of the Act, Division 7.1 is not counted towards the affordable housing component under this division.
- (3) In this section—

relevant zone means the following—

- (a) Zone E1 Local Centre,
- (b) Zone MU1 Mixed Use,
- (c) Zone B1 Neighbourhood Centre,
- (d) Zone B2 Local Centre,
- (e) Zone B4 Mixed Use.

16 Affordable housing requirements for additional floor space ratio

- (1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).
- (2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—

$$\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$$

- (3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).

Example— Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection (2), is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing.

- (4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.

17 Additional floor space ratio for relevant authorities and registered community housing providers

- (1) This section applies to residential development to which this division applies that is carried out—
 - (a) by or on behalf of a relevant authority or registered community housing provider, and
 - (b) on land with a maximum permissible floor space ratio of 2:1 or less.
- (2) The maximum floor space ratio for the development is—
 - (a) the maximum floor space ratio calculated in accordance with section 16, or
 - (b) the maximum floor space ratio calculated in accordance with subsection (3).
- (3) The maximum floor space ratio for subsection (2)(b) is the maximum permissible floor space ratio for the land plus an additional floor space ratio of—
 - (a) if the affordable housing component is at least 50%—0.5:1, or
 - (b) if the affordable housing component is between 20% and 50%—Y:1, where—

AH is the affordable housing component.

Y is $AH \div 100$.

- (4) If development to which this section applies uses the maximum floor space ratio under subsection (2)(a), section 16(3) also applies to the development.

18 Affordable housing requirements for additional building height

- (1) This section applies to development that includes residential development to which this division applies if the development—
- (a) includes residential flat buildings or shop top housing, and
 - (b) does not use the additional floor space ratio permitted under section 16.
- (2) The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).
- (3) The minimum affordable housing component, which must be at least 10%, is calculated as follows—

$$\text{affordable housing component} = \frac{\text{additional building height}}{\text{(as a percentage)}} \div 2$$

19 Non-discretionary development standards—the Act, s 4.15

- (1) The object of this section is to identify development standards for particular matters relating to residential development under this division 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 following are non-discretionary development standards in relation to the residential development to which this division applies—
- (a) a minimum site area of 450m²,
 - (b) a minimum landscaped area that is the lesser of—
 - (i) 35m² per dwelling, or
 - (ii) 30% of the site area,
 - (c) a deep soil zone on at least 15% of the site area, where—
 - (i) each deep soil zone has minimum dimensions of 3m, and
 - (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,
 - (d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,
 - (e) the following number of parking spaces for dwellings used for affordable housing—
 - (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,
 - (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,
 - (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,

- (f) the following number of parking spaces for dwellings not used for affordable housing—
 - (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,
 - (ii) for each dwelling containing 2 bedrooms—at least 1 parking space,
 - (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,
 - (g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,
 - (h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,
 - (i) if paragraphs (g) and (h) do not apply, the following minimum floor areas—
 - (i) for each dwelling containing 1 bedroom—65m²,
 - (ii) for each dwelling containing 2 bedrooms—90m²,
 - (iii) for each dwelling containing at least 3 bedrooms—115m² plus 12m² for each bedroom in addition to 3 bedrooms.
- (3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.

20 Design requirements

- (1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy.
- (2) Subsection (1) does not apply to development to which Chapter 4 applies.
- (3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—
 - (a) the desirable elements of the character of the local area, or
 - (b) for precincts undergoing transition—the desired future character of the precinct.

21 Must be used for affordable housing for at least 15 years

- (1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development—
 - (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and
 - (b) the affordable housing component will be managed by a registered community housing provider.
- (2) This section does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.

22 Subdivision permitted with consent

Land on which development has been carried out under this division may be subdivided with development consent.

[9] Section 23 Boarding houses permitted with consent

Omit “Greater Sydney region” from section 23(2)(a).

Insert instead “Eastern Harbour City, Central River City, Western Parkland City or Central Coast City”.

[10] Sections 23(2)(b) and 28(2)(b)

Omit “400m” wherever occurring. Insert instead “800m”.

[11] Sections 23(2)(b) and 28(2)(b)

Insert “Zone B1 Neighbourhood Centre,” after “Zone MU1 Mixed Use,” wherever occurring.

[12] Section 24 Non-discretionary development standards—the Act, s 4.15

Insert after section 24(1)—

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.

[13] Section 24(2)(a)

Insert “or shop top housing” after “buildings”.

[14] Section 24(2)(a)(ii)

Omit “25%”. Insert instead “30%”.

[15] Section 26 Must be used for affordable housing in perpetuity

Omit section 26(2). Insert instead—

- (2) Subsection (1) does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.

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

Omit “Aboriginal Housing Office and Land and Housing Corporation”.

Insert instead “relevant authorities”.

[17] Section 28 Development to which Division applies

Omit “Greater Sydney region” from section 28(2)(a).

Insert instead “Eastern Harbour City, Central River City, Western Parkland City or Central Coast City”.

[18] Sections 30–30B

Omit section 30. Insert instead—

30 Notification before carrying out development

- (1) Before carrying out development to which this division applies, the relevant authority must do the following—
- (a) request that the council nominate persons who must, in the council’s opinion, be notified of the development,

- (b) give written notice of the intention to carry out the development to—
 - (i) the council, and
 - (ii) any persons nominated by the council under paragraph (a), and
 - (iii) the occupiers of adjoining land,
 - (c) take into account the responses to the notice that are received within 21 days after the notice is given.
- (2) In this section, a reference to the council is a reference to the council for the land on which the development is proposed to be carried out.

30A Landcom must notify Secretary of Department of Communities and Justice

Before carrying out development to which this division applies, Landcom must—

- (a) give written notice of the intention to carry out the development to the Secretary of the Department of Communities and Justice, including the measures proposed to ensure the boarding house will be—
 - (i) used for affordable housing, and
 - (ii) managed by a registered community housing provider, and
- (b) take into account the responses to the notice that are received within 21 days after the notice is given.

30B Considerations before carrying out development

- (1) Before carrying out development under this division, the Aboriginal Housing Office must consider the *AHO Design Guidelines NSW*, published by the Aboriginal Housing Office in January 2020.
- (2) Before carrying out development under this division, the Land and Housing Corporation must consider—
 - (a) *Good Design for Social Housing*, published by the Land and Housing Corporation, in partnership with the Government Architect NSW, in September 2020, and
 - (b) the *NSW Land and Housing Corporation Design Requirements*, published by the Land and Housing Corporation in February 2023.
- (3) Before carrying out development under this division, Landcom must consider the *Landcom Affordable Housing Design Guideline*, published by Landcom, in partnership with the Government Architect NSW, in November 2023.

[19] Section 36 Land to which Division applies

Omit “Greater Sydney region” from section 36(1)(a).

Insert instead “Eastern Harbour City, Central River City, Western Parkland City or Central Coast City”.

[20] Section 40 Must be used for affordable housing for at least 15 years

Omit section 40(2). Insert instead—

- (2) Subsection (1) does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.

[21] Section 41 Continued application of SEPP 65

Omit the section.

[22] Chapter 2, Part 2, Division 6

Omit the division. Insert instead—

Division 6 Residential development—relevant authorities

42 Development to which division applies

- (1) This division applies to residential development if—
 - (a) the development is permitted with development consent on the land under another environmental planning instrument, and
 - (b) all buildings will have a height not exceeding the greater of—
 - (i) 11m, or
 - (ii) the maximum permissible building height for the land, and
 - (c) all buildings will have a floor space ratio not exceeding the greater of—
 - (i) 0.65:1, or
 - (ii) the maximum permissible floor space ratio for the land, and
 - (d) the development will not result in more than 75 dwellings on a single site, and
 - (e) for development on land in an accessible area—the development will result in the following number of parking spaces—
 - (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,
 - (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,
 - (iii) for each dwelling containing at least 3 bedrooms—at least 1 parking space, and
 - (f) for development on land that is not in an accessible area—the development will result in the following number of parking spaces—
 - (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,
 - (ii) for each dwelling containing 2 bedrooms—at least 1 parking space,
 - (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces.
- (2) This division also applies to the following development if the development is permitted on the land under another environmental planning instrument—
 - (a) the demolition of buildings and associated structures if the building or structure is on land that—
 - (i) is non-heritage land, and
 - (ii) is not identified in an environmental planning instrument as being in a heritage conservation area,
 - (b) the subdivision of land and subdivision works.
- (3) This division does not apply to—
 - (a) development to which Chapter 2, Part 2, Division 5 applies, or
 - (b) development that is part of a project, or part of a stage of a project, that the Minister determined under the Act, former section 75P to be subject to the Act, Part 4.

- (4) *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.
- (5) In this section—
- former section 75P** means the Act, section 75P, as in force immediately before its repeal by the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011*.
- non-heritage land** means land that—
- (a) does not contain a heritage item, and
 - (b) is not the subject of an interim heritage order under the *Heritage Act 1977*, and
 - (c) is not listed on the State Heritage Register under the *Heritage Act 1977*.

43 Residential development permitted without consent

Development for the purposes of residential development to which this division applies may be carried out without consent if the development is carried out by or on behalf of—

- (a) Landcom, if all dwellings resulting from the residential development are used for affordable housing, or
- (b) another relevant authority.

43A Notification before carrying out development

- (1) Before carrying out development to which this division applies, the relevant authority must do the following—
- (a) request that the council nominate persons who must, in the council’s opinion, be notified of the development,
 - (b) give written notice of the intention to carry out the development to—
 - (i) the council, and
 - (ii) any persons nominated by the council under paragraph (a), and
 - (iii) the occupiers of adjoining land,
 - (c) take into account the responses to the notice that are received within 21 days after the notice is given.
- (2) In this section, a reference to the council is a reference to the council for the land on which the development is proposed to be carried out.

43B Landcom must notify Secretary of Department of Communities and Justice

Before carrying out development to which this division applies, Landcom must—

- (a) give written notice of the intention to carry out the development to the Secretary of the Department of Communities and Justice, including the measures proposed to ensure the dwellings resulting from the residential development will be—
 - (i) used for affordable housing, and
 - (ii) managed by a registered community housing provider, and

- (b) take into account the responses to the notice that are received within 21 days after the notice is given.

43C Consideration of design of residential apartment development

Before carrying out residential apartment development to which this division applies, the relevant authority must consider the following—

- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,
- (b) the Apartment Design Guide.

44 Considerations before carrying out development

- (1) Before carrying out development to which this division applies, the Aboriginal Housing Office must consider the *AHO Design Guidelines NSW*, published by the Aboriginal Housing Office in January 2020.
- (2) Before carrying out development to which this division applies, the Land and Housing Corporation must consider—
 - (a) *Good Design for Social Housing*, published by the Land and Housing Corporation, in partnership with the Government Architect NSW, in September 2020, and
 - (b) the *NSW Land and Housing Corporation Design Requirements*, published by the Land and Housing Corporation in February 2023.
- (3) Before carrying out development to which this division applies, Landcom must consider the *Landcom Affordable Housing Design Guideline*, published by Landcom, in partnership with the Government Architect NSW, in November 2023.

44A Exempt development

- (1) Development for the purposes of landscaping and gardening carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation in relation to residential development to which this division applies is exempt development.
- (2) Development for the purposes of repairs and maintenance work and non-structural renovations and building alterations carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation in relation to housing is exempt development.
- (3) Subsection (2) does not apply to development involving the use of external combustible cladding within the meaning of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

[23] Section 45, heading

Omit the heading. Insert instead—

45 Definitions

[24] Section 45, definition of “guidelines”

Omit the definition.

[25] Section 45, definition of “low-rental dwelling”

Omit “, as specified in the Rent and Sales Report,”.

[26] Section 45, definition of “median rental level”

Insert in alphabetical order—

median rental level, for a relevant period, means the average of all the median rental levels specified for the relevant period in the Rent and Sales Report.

[27] Section 45, definition of “Rent and Sales Report”

Omit the definition. Insert instead—

Rent and Sales Report means the report comprised of rent tables and sales tables published by the Department of Communities and Justice in March, June, September and December each year.

[28] Section 46 Buildings to which Part applies

Omit section 46(1)(a)–(c). Insert instead—

- (a) the Eastern Harbour City,
- (b) the Central River City,
- (c) the Western Parkland City,
- (d) the Central Coast City,
- (e) the City of Newcastle local government area,
- (f) the City of Wollongong local government area.

[29] Sections 47(2) and 48(4), definition of “rental yield”

Omit “guidelines” wherever occurring.

Insert instead “*Guidelines for the Retention of Existing Affordable Rental Housing*, published by the Department in October 2009”.

[30] Section 53 Non-discretionary development standards—the Act, s 4.15

Insert after section 53(1)—

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.

[31] Section 57 Development standards for bush fire prone land

Omit “and the requirements of relevant authorities” from section 57(2)(g).

[32] Section 68 Non-discretionary development standards—the Act, s 4.15

Insert after section 68(1)—

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.

[33] Section 71 Definitions

Omit the section.

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

Omit section 73(1). Insert instead—

- (1) Development consent must not be granted to the erection or use of a building for development to which this part applies unless the consent authority is satisfied that, during the relevant period, the tenanted component of the building—
 - (a) will not be subdivided into separate lots, and

- (b) will be owned and controlled by 1 person, and
- (c) will be operated by 1 managing agent, who provides on-site management.

[35] Section 73(3), definition of “relevant period”, paragraph (a)

Omit “or Zone B3 Commercial Core”.

Insert instead “, Zone B3 Commercial Core or Zone SP5 Metropolitan Centre”.

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

Insert after section 74(1)—

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.

[37] Section 74(2)(d)

Omit “Greater Sydney Region”.

Insert instead “Eastern Harbour City, Central River City or Western Parkland City”.

[38] Section 75 Design requirements

Omit “*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*” from section 75(1).

Insert instead “Chapter 4”.

[39] Section 82 Definitions

Omit section 82(1), definition of *serviced self-care housing*.

[40] Section 84 Development standards—general

Omit section 84(4). Insert instead—

- (4) Subsection (2)(a) and (b) do not apply to development if the development application is made by a social housing provider or Landcom.

[41] Section 85 Development standards for hostels and independent living units

Omit “sections 2, 7–13 and 15–20” from section 85(2).

Insert instead “sections 2, 5–13 and 15–21”.

[42] Section 85(2)

Insert “or Landcom” after “provider”.

[43] Section 91 Fire sprinkler systems in residential care facilities

Insert after section 91(2)—

- (3) In this section—
fire sprinkler system means a system designed to automatically control the growth and spread of fire that may include components like sprinklers, valves, pipework, pumps, boosters and water supplies.

[44] Chapter 3, Part 5, Division 4

Omit “of Planning, Industry and Environment” from the note to the division.

[45] Section 93 Location and access to facilities and services—~~independent living units~~

Omit “within the Greater Sydney region” from section 93(2)(b).

Insert instead “in the Eastern Harbour City, Central River City, Western Parkland City or Central Coast City”.

[46] Section 93(2)(c)

Omit “land that is not within the Greater Sydney region”. Insert instead “other land”.

[47] Section 95 Water and sewer

Omit “relevant authority” from section 95(2)(b). Insert instead “responsible authority”.

[48] Section 95(3)

Omit “*relevant*”. Insert instead “*responsible*”.

[49] Section 96 Bush fire prone land

Insert “relevant” before “bush fire prone land” wherever occurring in section 96(1) and (2).

[50] Section 96(3), definition of “bush fire prone land”

Omit “*bush fire prone land* means land”.

Insert instead “*relevant bush fire prone land* means bush fire prone land”.

[51] Section 97

Omit sections 97 and 98. Insert instead—

97 Design of seniors housing

(1) In determining a development application for development for the purposes of seniors housing, a consent authority must consider the *Seniors Housing Design Guide*, published by the Department in December 2023.

(2) Development consent must not be granted to development for the purposes of seniors housing unless the consent authority is satisfied the design of the seniors housing demonstrates that adequate consideration has been given to the design principles for seniors housing set out in Schedule 8.

[52] Chapter 3, Part 5, Division 6

Omit the division.

[53] Section 106

Omit the section. Insert instead—

106 Application of design principles for seniors housing

Nothing in this division affects the operation of section 97(2).

[54] Section 107 Non-discretionary development standards for hostels and residential care facilities—the Act, s 4.15

Insert after section 107(1)—

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.

[55] Section 108 Non-discretionary development standards for independent living units—the Act, s 4.15

Insert after section 108(1)—

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.

[56] Section 108(2)(d)

Omit section 108(2)(d) and (e). Insert instead—

- (d) a minimum landscaped area that is the lesser of—
 - (i) 35m² per dwelling, or
 - (ii) 30% of the site area,

[57] Section 108(2)(j)

Insert “or Landcom” after “provider”.

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

Omit “Aboriginal Housing Office and Land and Housing Corporation”.

Insert instead “relevant authorities”.

[59] Section 108AA Definition

Omit the section.

[60] Sections 108C–108CB

Omit section 108C. Insert instead—

108C Notification before carrying out development

- (1) Before carrying out development to which this division applies, the relevant authority must do the following—
 - (a) request that the council nominate persons who must, in the council’s opinion, be notified of the development,
 - (b) give written notice of the intention to carry out the development to—
 - (i) the council, and
 - (ii) any persons nominated by the council under paragraph (a), and
 - (iii) the occupiers of adjoining land,
 - (c) take into account the responses to the notice that are received within 21 days after the notice is given.
- (2) In this section, a reference to the council is a reference to the council for the land on which the development is proposed to be carried out.

108CA Landcom must notify Secretary of Department of Communities and Justice

Before carrying out development to which this division applies, Landcom must—

- (a) give written notice of the intention to carry out the development to the Secretary of the Department of Communities and Justice, including the measures proposed to ensure the seniors housing will be—
 - (i) used for affordable housing, and
 - (ii) managed by a registered community housing provider, and

- (b) take into account the responses to the notice that are received within 21 days after the notice is given.

108CB Considerations before carrying out development

- (1) Before carrying out development to which this division applies, the relevant authority must consider—
 - (a) the *Seniors Housing Design Guide*, published by the Department in December 2023, and
 - (b) the design principles for seniors housing set out in Schedule 8.
- (2) Before carrying out development to which this division applies, the Aboriginal Housing Office must consider the *AHO Design Guidelines NSW*, published by the Aboriginal Housing Office in January 2020.
- (3) Before carrying out development to which this division applies, the Land and Housing Corporation must consider—
 - (a) *Good Design for Social Housing*, published by the Land and Housing Corporation, in partnership with the Government Architect NSW, in September 2020, and
 - (b) the *NSW Land and Housing Corporation Design Requirements*, published by the Land and Housing Corporation in February 2023.
- (4) Before carrying out development to which this division applies, Landcom must consider the *Landcom Affordable Housing Design Guideline*, published by Landcom, in partnership with the Government Architect NSW, in November 2023.

[61] Section 112 Exempt development—non-hosted short-term rental accommodation

Omit section 112(3), definition of *prescribed area*, paragraph (a). Insert instead—

- (a) the Eastern Harbour City, Central River City and Western Parkland City,

[62] Section 113 General requirements

Omit “within the meaning of Part 4” from section 113(b).

[63] Section 136 Definitions

Omit the definitions of *bush fire prone land* and *Planning for Bush Fire Protection*.

[64] Section 141 Issue of site compatibility certificate

Omit “Planning for Bush Fire Protection” from section 141(3)(h).

Insert instead “*Planning for Bush Fire Protection*”.

[65] Chapter 4

Insert after Chapter 3—

Chapter 4 Design of residential apartment development

142 Aims of chapter

- (1) The aim of this chapter is to improve the design of residential apartment development in New South Wales for the following purposes—

- (a) to ensure residential apartment development contributes to the sustainable development of New South Wales by—
 - (i) providing socially and environmentally sustainable housing, and
 - (ii) being a long-term asset to the neighbourhood, and
 - (iii) achieving the urban planning policies for local and regional areas,
 - (b) to achieve better built form and aesthetics of buildings, streetscapes and public spaces,
 - (c) to maximise the amenity, safety and security of the residents of residential apartment development and the community,
 - (d) to better satisfy the increasing demand for residential apartment development, considering—
 - (i) the changing social and demographic profile of the community, and
 - (ii) the needs of a wide range of people, including persons with disability, children and seniors,
 - (e) to contribute to the provision of a variety of dwelling types to meet population growth,
 - (f) to support housing affordability,
 - (g) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions,
 - (h) to facilitate the timely and efficient assessment of development applications to which this chapter applies.
- (2) This chapter recognises that the design of residential apartment development is significant because of the economic, environmental, cultural and social benefits of high quality design.

143 Land to which chapter applies

This chapter applies to the whole of the State, other than land to which *State Environmental Planning Policy (Precincts—Regional) 2021*, Chapter 4 applies.

144 Application of chapter

- (1) In this policy, development to which this chapter applies is referred to as ***residential apartment development***.
- (2) This chapter applies to the following—
 - (a) development for the purposes of residential flat buildings,
 - (b) development for the purposes of shop top housing,
 - (c) mixed use development with a residential accommodation component that does not include boarding houses or co-living housing, unless a local environmental plan provides that mixed use development including boarding houses or co-living housing is residential apartment development for this chapter.
- (3) This chapter applies to development only if—
 - (a) the development consists of—
 - (i) the erection of a new building, or
 - (ii) the substantial redevelopment or substantial refurbishment of an existing building, or

- (iii) the conversion of an existing building, and
 - (b) the building is at least 3 storeys, not including underground car parking storeys, and
 - (c) the building contains at least 4 dwellings.
- (4) If particular development comprises development for the purposes specified in subsection (2) and development for other purposes, this chapter applies only to the part of the development for the purposes specified in subsection (2).
- (5) This chapter does not apply to development that involves only a class 1a or 1b building within the meaning of the *Building Code of Australia*.
- (6) To avoid doubt, development to which Chapter 2, Part 2, Division 1, 5 or 6 applies may also be residential apartment development under this chapter.
- (7) In this section—
- underground car parking storey*** means a storey used for car parking that is—
 - (a) below ground level (existing), or
 - (b) less than 1.2m above ground level (existing).

145 Referral to design review panel for development applications

- (1) This section applies to a development application for residential apartment development, other than State significant development.
- (2) Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development.
- (3) This section does not apply if—
- (a) a design review panel has not been constituted for the local government area in which the development will be carried out, or
 - (b) a competitive design process has been held.
- (4) In this section—
- competitive design process*** means a design competition held in accordance with the *Design Competition Guidelines* published by the Department in September 2023.

146 Referral to design review panel for modification applications

- (1) This section applies to a modification application for residential apartment development, other than State significant development.
- (2) If the statement by the qualified designer required to accompany the modification application under the *Environmental Planning and Assessment Regulation 2021*, section 102(1) does not verify that the qualified designer designed, or directed the design of, the original development, the consent authority must refer the modification application to the relevant design review panel for advice before determining the modification application.
- (3) The consent authority may also refer a modification application for residential apartment development to the relevant design review panel for advice before determining the modification application.
- (4) The design review panel must advise whether the modification—
- (a) diminishes or detracts from the design quality of the original development, or

- (b) compromises the design intent of the original development.
- (5) Subsection (2) does not apply if—
 - (a) a design review panel has not been constituted for the local government area in which the development will be carried out, or
 - (b) a competitive design process has been held.

- (6) In this section—

competitive design process means a design competition held in accordance with the *Design Competition Guidelines* published by the Department in September 2023.

relevant design review panel means the design review panel for the local government area in which the development will be carried out.

147 Determination of development applications and modification applications for residential apartment development

- (1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—
 - (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,
 - (b) the Apartment Design Guide,
 - (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.
- (2) The 14-day period referred to in subsection (1)(c) does not increase or otherwise affect the period in which a development application or modification application must be determined by the consent authority.
- (3) To avoid doubt, subsection (1)(b) does not require a consent authority to require compliance with design criteria specified in the Apartment Design Guide.
- (4) Subsection (1)(c) does not apply to State significant development.

148 Non-discretionary development standards for residential apartment development—the Act, s 4.15

- (1) The object of this section is to identify development standards for particular matters relating to residential apartment development 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 following are non-discretionary development standards—
 - (a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
 - (b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,

- (c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

149 Apartment Design Guide prevails over development control plans

- (1) A requirement, standard or control for residential apartment development that is specified in a development control plan and relates to the following matters has no effect if the Apartment Design Guide also specifies a requirement, standard or control in relation to the same matter—
 - (a) visual privacy,
 - (b) solar and daylight access,
 - (c) common circulation and spaces,
 - (d) apartment size and layout,
 - (e) ceiling heights,
 - (f) private open space and balconies,
 - (g) natural ventilation,
 - (h) storage.
- (2) This section applies regardless of when the development control plan was made.

[66] Schedule 3 Environmentally sensitive land

Omit paragraph (a) from the matter relating to “Land identified in another environmental planning instrument as follows”.

[67] Schedule 4 Standards concerning accessibility and usability for hostels and independent living units

Insert after section 1—

1A Definitions

In this schedule—

circulation space has the same meaning as in AS 1428.1.

continuous accessible path of travel has the same meaning as in AS 1428.1.

general power outlet means a general power outlet that complies with AS 1428.1.

AS 4586—2013 means the Australian Standard entitled AS 4586—2013, *Slip resistance classification of new pedestrian surface materials*, published on 28 June 2013.

[68] Schedule 4, section 2

Omit “(within the meaning of AS 1428.1)” wherever occurring in section 2(1) and (2)(b).

[69] Schedule 4, sections 3–13

Omit sections 3–13. Insert instead—

3 Letterboxes

- (1) Letterboxes—
 - (a) must be located on a hard standing area, and

- (b) must have wheelchair access by a continuous accessible path of travel from the letterbox to the relevant dwelling, and
 - (c) must be lockable by a lock that faces a wheelchair accessible path.
- (2) If a structure contains multiple letterboxes, the structure must be in a prominent location.
- (3) At least 20% of the letterboxes on the site must be more than 600mm and less than 1,200mm above ground level (finished).

4 Car parking

- (1) If parking spaces attached to or integrated with a class 1 building under the *Building Code of Australia* are provided for use by occupants who are seniors or people with a disability, at least 1 parking space must—
- (a) be at least 3.2m wide, and
 - (b) be at least 2.5m high, and
 - (c) have a level surface with a maximum gradient of 1:40 in any direction, and
 - (d) be capable of being widened to 3.8m without requiring structural modifications to a building.
- (2) If parking spaces associated with a class 1, 2 or 3 building under the *Building Code of Australia* are provided in a common area for use by occupants who are seniors or people with a disability, the following applies—
- (a) for a parking space not in a group—the parking space must comply with AS/NZS 2890.6,
 - (b) for a group of 2–7 parking spaces—
 - (i) at least 1 of the parking spaces must comply with AS/NZS 2890.6, and
 - (ii) 50% of the parking spaces must—
 - (A) comply with AS/NZS 2890.6, or
 - (B) be at least 3.2m wide and have a level surface with a maximum gradient of 1:40 in any direction,
 - (c) for a group of 8 or more parking spaces—
 - (i) at least 15% of the parking spaces must comply with AS/NZS 2890.6, and
 - (ii) at least 50% of the parking spaces must—
 - (A) comply with AS/NZS 2890.6, or
 - (B) be at least 3.2m wide and have a level surface with a maximum gradient of 1:40 in any direction.
- (3) To avoid doubt, a parking space that complies with AS/NZS 2890.6 is only counted toward 1 of the requirements in subsection (2)(b)(i) or (ii) or (c)(i) or (ii).
- (4) At least 5% of any visitor parking spaces must comply with AS/NZS 2890.6.
- (5) A parking space required by this section to comply with AS/NZS 2890.6, other than a visitor parking space, is not required to include the international symbol of access.
- (6) If multiple parking spaces are accessible by a common access point, the access point must be secured by a power-operated garage door, vehicle gate, vehicle barrier or similar device.

- (7) A parking space, other than a parking space under subsection (6), must be—
 - (a) secured by a power-operated door, or
 - (b) capable of accommodating the installation of a power-operated door, including by having—
 - (i) access to a power point, and
 - (ii) an area for motor or control rods for a power-operated door.
- (8) A requirement in this section for a parking space to comply with AS/NZS 2890.6 extends to the associated shared area within the meaning of AS/NZS 2890.6.
- (9) In this section, a parking space is in a *common area* if it is not attached to or integrated with a hostel or independent living unit.

5 Accessible entry

- (1) The main entrance to a dwelling must have—
 - (a) a clear opening that complies with AS 1428.1, and
 - (b) a circulation space in front of the door and behind the door that complies with AS 1428.1.
- (2) This section does not apply to an entry for employees.

6 Interiors

- (1) An internal doorway must have an unobstructed opening that complies with AS 1428.1.
- (2) An internal corridor must have an unobstructed width of at least 1,000mm.
- (3) The circulation spaces in front of and behind an internal doorway in the following areas must comply with AS 1428.1—
 - (a) a kitchen,
 - (b) a laundry,
 - (c) a bathroom,
 - (d) a toilet,
 - (e) a bedroom,
 - (f) a living area,
 - (g) the main area of private open space.
- (4) To avoid doubt, subsection (3)(b) does not apply to laundry facilities in a cupboard.

7 Bedroom

At least one bedroom in a dwelling must have the following—

- (a) a clear area, not including a circulation space, sufficient to accommodate—
 - (i) for a hostel—a wardrobe and a single-size bed, or
 - (ii) for an independent living unit—a wardrobe and a queen-size bed,
- (b) a clear area around the area for the bed of at least—
 - (i) 1,200mm at the foot of the bed, and
 - (ii) 1,000mm on each side of the bed,

- (c) at least 2 double general power outlets on the wall where the head of the bed is likely to be,
- (d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be.

8 Bathroom

- (1) At least one bathroom in a dwelling must be located on—
 - (a) the same floor as the entry to the dwelling, or
 - (b) a floor serviced by a private passenger lift accessible only from inside the dwelling.
- (2) The bathroom must have the following—
 - (a) a slip resistant floor surface that achieves a minimum rating of P3 in accordance with AS 4586—2013,
 - (b) a washbasin with tap ware capable of complying with AS 1428.1, including by future adaptation if the washbasin and tap ware continue to use existing hydraulic lines,
 - (c) a shower that—
 - (i) is accessible without a shower-hob or step, and
 - (ii) complies with the requirements of AS 1428.1 for the entry, circulation space, floor gradient to the wastewater outlet and location of the mixer tap, and
 - (iii) is in the corner of a room, and
 - (iv) has a wall capable of accommodating the installation of a grab rail, portable shower head with supporting grab rail and shower seat, in accordance with AS 1428.1,
 - (d) a wall cabinet with shelving illuminated by an illumination level of at least 300 lux,
 - (e) a double general power outlet in an accessible location, in accordance with AS 1428.1.
- (3) Subsection (2)(c) does not prevent the installation of a shower screen that can easily be removed to enable compliance with that paragraph.

9 Toilet

- (1) At least one toilet in a dwelling must be located on—
 - (a) the same floor as the entry to the dwelling, or
 - (b) a floor serviced by a private passenger lift accessible only from inside the dwelling.
- (2) The toilet must have the following—
 - (a) a water closet pan—
 - (i) in the corner of the room, and
 - (ii) with a centreline set-out in accordance with AS 1428.1,
 - (b) a circulation space in front of the water closet pan that is—
 - (i) at least 1,200mm long and at least 900mm wide, and
 - (ii) clear of door swings and fixtures, other than a toilet paper dispenser or grab rails,
 - (c) a circulation space around the water closet pan that complies with AS 1428.1,

- (d) a slip resistant floor surface that achieves a minimum rating of P3 in accordance with AS 4586—2013,
 - (e) a wall capable of accommodating the installation of a back rest and grab rail that will comply with AS 1428.1.
- (3) A removable shower screen may be located in the circulation space specified in subsection (2)(c).

10 Surfaces of balconies and external paved areas

Balconies and external paved areas must have surfaces that are slip resistant and comply with—

- (a) the *Building Code of Australia*, or
- (b) the Standards Australia Handbook SA HB 198:2014, *Guide to the specification and testing of slip resistance of pedestrian surfaces*, published on 16 June 2014.

11 Door hardware

- (1) Door handles and hardware for all doors, including entry doors and external doors, must comply with AS 1428.1.
- (2) To avoid doubt, subsection (1) does not apply to cabinetry.

12 Switches and power points

- (1) Switches and power points must—
 - (a) comply with AS 1428.1, or
 - (b) be capable of complying with AS 1428.1 through future adaptation.
- (2) Subsection (1) does not apply to—
 - (a) remote controls, or
 - (b) power points likely to serve appliances that are not regularly moved or turned off.

13 Private passenger lifts

- (1) This section applies to a private passenger lift that is required by this schedule to be accessible only from inside a particular dwelling.
- (2) The private passenger lift must—
 - (a) be at least 1,100mm wide and at least 1,400mm long, measured from the lift car floor, and
 - (b) have a clear indoor landing on all floors serviced by the lift, other than the floor on which the main area of private open space is located, at least 1,540mm long and at least 2,070mm wide, and
 - (c) have controls that comply with—
 - (i) AS 1735.12:2020, *Lifts, escalators and moving walks, Part 12: Facilities for persons with disabilities*, published on 26 June 2020, or
 - (ii) AS 1735.15:2021, *Lifts, escalators and moving walks, Part 15: Safety rules for the construction and installation of lifts — Special lifts for the transport of persons and goods — Vertical lifting platforms intended for use by persons with impaired mobility*, published on 23 July 2021.

- (3) The width of the door opening of the private passenger lift must be at least 900mm.
- (4) The private passenger lift must not be a stairway platform lift.

[70] Schedule 4, sections 15–21

Omit the sections. Insert instead—

15 Bedroom

At least one bedroom in an independent living unit that complies with this schedule, section 7 must be located on—

- (a) the same floor as the entry to the unit, or
- (b) a floor serviced by a private passenger lift accessible only from inside the unit.

16 Living room

- (1) A living room in an independent living unit must be located on—
 - (a) the same floor as the entry to the dwelling, or
 - (b) a floor serviced by a private passenger lift accessible only from inside the dwelling.
- (2) The living room must have—
 - (a) a circulation space that—
 - (i) is clear of all fixtures, and
 - (ii) has a diameter of at least 2,250mm, and
 - (b) a telecommunications or data outlet adjacent to a general power outlet.

17 Main area of private open space

The main area of private open space for an independent living unit must be located on—

- (a) the same floor as the entry to the dwelling, or
- (b) a floor serviced by a private passenger lift accessible only from inside the dwelling.

18 Kitchen

- (1) A kitchen in an independent living unit must be located on—
 - (a) the same floor as the entry to the dwelling, or
 - (b) a floor serviced by a private passenger lift accessible only from inside the dwelling.
- (2) The kitchen must have a circulation space with a diameter of at least 1,200mm between each bench top, cupboard or large appliance and each other bench top, cupboard or large appliance.
- (3) Each circulation space specified in subsection (2) must be capable of being increased to a diameter of 1,550mm without—
 - (a) relocating the sink, or
 - (b) moving a load-bearing wall, or
 - (c) breaching another circulation requirement.
- (4) The kitchen must have the following fittings—

- (a) a bench that includes at least one work surface that is—
 - (i) at least 800mm long, and
 - (ii) clear of obstructions, and
 - (iii) not in the corner of the room,
 - (b) a lever tap set with the lever and water source that is within 300mm of the front of the bench,
 - (c) a cooktop next to the work surface,
 - (d) an isolating switch for the cooktop,
 - (e) an oven that—
 - (i) has operative elements between 450mm and 1,250mm above the finished floor level, and
 - (ii) is next to the work surface,
 - (f) at least one double general power outlet located within 300mm of the front of a work surface.
- (5) The cupboards must—
- (a) not be entirely located in the corner of the bench or the corner of the room, and
 - (b) face where the user of the fixture is likely to be.
- (6) An overhead cupboard in the kitchen must be capable of being fitted with “D” pull cupboard handles towards the bottom of the cupboard.
- (7) A below-bench cupboard in the kitchen must be capable of being fitted with “D” pull cupboard handles towards the top of the cupboard.
- (8) The lever tap set, cooktop, isolating switch, oven and double general power outlet must—
- (a) not be in the corner of the bench or the corner of the room, and
 - (b) face where the user of the fixture is likely to be.
- (9) Cabinetry below a work surface must be able to be easily removed to allow wheelchair access to the work surface.

19 Laundry

- (1) A laundry in an independent living unit must be located on—
- (a) the same floor as the entry to the dwelling, or
 - (b) a floor serviced by a private passenger lift accessible only from inside the dwelling.
- (2) The laundry must have the following—
- (a) a circulation space that complies with AS 1428.1 at the approach to any external doors,
 - (b) an appropriate space for an automatic washing machine and a clothes dryer,
 - (c) a clear space in front of each appliance of at least 1,550mm,
 - (d) a slip resistant floor surface that achieves a minimum rating of P3 in accordance with AS 4586—2013,
 - (e) a continuous accessible path of travel to the main area of private open space or any clothes line provided for the dwelling.

- (3) The space specified in subsection (2)(c) may overlap with a door swing or the circulation space for a door.
- (4) For laundry facilities in a cupboard, the cupboard must be capable of being fitted with “D” pull cupboard handles in the following locations—
 - (a) for below-bench cupboards—towards the top,
 - (b) for overhead cupboards—towards the bottom,
 - (c) for floor-to-ceiling doors—between 900mm and 1,100mm above the finished floor level.
- (5) In this section—
laundry includes laundry facilities in a cupboard.

20 Linen storage

An independent living unit must have a floor-to-ceiling linen storage cupboard that—

- (a) is at least 600mm wide, and
- (b) has adjustable shelving.

21 Lift access in multi-storey buildings

An independent living unit on a storey above the ground storey must be accessible by a lift that complies with the *Building Code of Australia*, Volume 1, Part E3.

22 Garbage and recycling

A garbage storage area and a recycling storage area provided for an independent living unit must be accessible by a continuous accessible path of travel from the dwelling entrance.

[71] Schedule 7A Savings and transitional provisions

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

State Environmental Planning Policy Amendment (Housing) 2023

- (1) An amendment made to this policy by the amending policy does not apply to a development application made but not finally determined before the commencement date.
- (2) An amendment made to this policy by the amending policy does not apply to the carrying out of an activity by the Land and Housing Corporation after the commencement date if—
 - (a) notice of the activity was given to the council under section 30(1)(b)(i), 43(1)(b)(i) or 108C(1)(b)(i), as in force before the commencement date, before the commencement date, and
 - (b) an approval required under the Act, Part 5 for carrying out the activity is granted by the determining authority before 20 December 2024.
- (3) In this section—
amending policy means *State Environmental Planning Policy Amendment (Housing) 2023*.
commencement date means the date on which the amending policy, Schedule 1 commences.

[72] Schedules 8 and 9

Insert after Schedule 7A—

Schedule 8 Design principles for seniors housing

section 97

1 Neighbourhood amenity and streetscape

Seniors housing should be designed as follows—

- (a) to recognise the operational, functional and economic requirements of residential care facilities, which typically require a different building shape from other residential accommodation,
- (b) to recognise the desirable elements of—
 - (i) the location's current character, or
 - (ii) for precincts undergoing a transition—the future character of the location so new buildings contribute to the quality and identity of the area,
- (c) to complement heritage conservation areas and heritage items in the area,
- (d) to maintain reasonable neighbourhood amenity and appropriate residential character by—
 - (i) providing building setbacks to reduce bulk and overshadowing, and
 - (ii) using building form and siting that relates to the site's land form, and
 - (iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and
 - (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours,
- (e) to set back the front building on the site generally in line with the existing building line,
- (f) to include plants reasonably similar to other plants in the street,
- (g) to retain, wherever reasonable, significant trees,
- (h) to prevent the construction of a building in a riparian zone.

2 Visual and acoustic privacy

Seniors housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and all residents of the seniors housing by—

- (a) using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping, and
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.

3 Solar access and design for climate

The design of seniors housing should—

- (a) for development involving the erection of a new building—provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and

- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.

4 Stormwater

The design of seniors housing should aim to—

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.

5 Crime prevention

Seniors housing should—

- (a) be designed in accordance with environmental design principles relating to crime prevention, and
- (b) provide personal property security for residents and visitors, and
- (c) encourage crime prevention by—
 - (i) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins the area, driveway or street, and
 - (ii) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and
 - (iii) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.

6 Accessibility

Seniors housing should—

- (a) have obvious and safe pedestrian links from the site that provide access to transport services or local facilities, and
- (b) provide safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.

7 Waste management

Seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.

Schedule 9 Design principles for residential apartment development

section 147

1 Context and neighbourhood character

- (1) Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.

- (2) Responding to context involves identifying the desirable elements of an area's existing or future character.
- (3) Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.
- (4) Consideration of local context is important for all sites, including sites in the following areas—
 - (a) established areas,
 - (b) areas undergoing change,
 - (c) areas identified for change.

2 Built form and scale

- (1) Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.
- (2) Good design also achieves an appropriate built form for a site and the building's purpose in terms of the following—
 - (a) building alignments and proportions,
 - (b) building type,
 - (c) building articulation,
 - (d) the manipulation of building elements.
- (3) Appropriate built form—
 - (a) defines the public domain, and
 - (b) contributes to the character of streetscapes and parks, including their views and vistas, and
 - (c) provides internal amenity and outlook.

3 Density

- (1) Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.
- (2) Appropriate densities are consistent with the area's existing or projected population.
- (3) Appropriate densities are sustained by the following—
 - (a) existing or proposed infrastructure,
 - (b) public transport,
 - (c) access to jobs,
 - (d) community facilities,
 - (e) the environment.

4 Sustainability

- (1) Good design combines positive environmental, social and economic outcomes.
- (2) Good sustainable design includes—
 - (a) use of natural cross ventilation and sunlight for the amenity and liveability of residents, and
 - (b) passive thermal design for ventilation, heating and cooling, which reduces reliance on technology and operation costs.

- (3) Good sustainable design also includes the following—
 - (a) recycling and reuse of materials and waste,
 - (b) use of sustainable materials,
 - (c) deep soil zones for groundwater recharge and vegetation.

5 Landscape

- (1) Good design recognises that landscape and buildings operate together as an integrated and sustainable system, resulting in development with good amenity.
- (2) A positive image and contextual fit of well designed development is achieved by contributing to the landscape character of the streetscape and neighbourhood.
- (3) Good landscape design enhances the development's environmental performance by retaining positive natural features that contribute to the following—
 - (a) the local context,
 - (b) co-ordinating water and soil management,
 - (c) solar access,
 - (d) micro-climate,
 - (e) tree canopy,
 - (f) habitat values,
 - (g) preserving green networks.
- (4) Good landscape design optimises the following—
 - (a) usability,
 - (b) privacy and opportunities for social interaction,
 - (c) equitable access,
 - (d) respect for neighbours' amenity.
- (5) Good landscape design provides for practical establishment and long term management.

6 Amenity

- (1) Good design positively influences internal and external amenity for residents and neighbours.
- (2) Good amenity contributes to positive living environments and resident well-being.
- (3) Good amenity combines the following—
 - (a) appropriate room dimensions and shapes,
 - (b) access to sunlight,
 - (c) natural ventilation,
 - (d) outlook,
 - (e) visual and acoustic privacy,
 - (f) storage,
 - (g) indoor and outdoor space,
 - (h) efficient layouts and service areas,

- (i) ease of access for all age groups and degrees of mobility.

7 Safety

- (1) Good design optimises safety and security within the development and the public domain.
- (2) Good design provides for quality public and private spaces that are clearly defined and fit for the intended purpose.
- (3) Opportunities to maximise passive surveillance of public and communal areas promote safety.
- (4) A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

8 Housing diversity and social interaction

- (1) Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.
- (2) Well designed residential apartment development responds to social context by providing housing and facilities to suit the existing and future social mix.
- (3) Good design involves practical and flexible features, including—
 - (a) different types of communal spaces for a broad range of people, and
 - (b) opportunities for social interaction among residents.

9 Aesthetics

- (1) Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.
- (2) Good design uses a variety of materials, colours and textures.
- (3) The visual appearance of well designed residential apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

[73] Dictionary, heading

Omit the heading. Insert instead—

Schedule 10 Dictionary

section 4

[74] Schedule 10 Dictionary

Omit the definitions of *ABS*, *Apartment Design Guide*, *AS 4299*, *development for the purposes of a secondary dwelling*, *fire sprinkler system*, *general power outlet*, *Greater Sydney region*, *non-heritage land*, *relevant authority*, *serviced self-care housing*, *State Heritage Register*, *tenanted component* and *wheelchair access*.

Insert in alphabetical order—

Apartment Design Guide means the *Apartment Design Guide* published by the Department in July 2015.

AS 4586—2013, for Schedule 4—see Schedule 4, section 1A.

bush fire prone land means land identified on a bush fire prone land map certified under the Act, section 10.3.

Central Coast City means the land described as the Central Coast City in the Six Cities Region.

Note— The Act, Schedule 9 sets out the local government areas in each city in the Six Cities Region.

Central River City means the land described as the Central River City in the Six Cities Region.

Note— The Act, Schedule 9 sets out the local government areas in each city in the Six Cities Region.

circulation space, for Schedule 4—see Schedule 4, section 1A.

continuous accessible path of travel, for Schedule 4—see Schedule 4, section 1A.

design principles for residential apartment development means the principles set out in Schedule 9.

design principles for seniors housing means the principles set out in Schedule 8.

design review panel means a panel constituted by the Minister under the *Environmental Planning and Assessment Regulation 2021*, section 288A.

development for the purposes of a secondary dwelling—see section 49.

Eastern Harbour City means the land described as the Eastern Harbour City in the Six Cities Region.

Note— The Act, Schedule 9 sets out the local government areas in each city in the Six Cities Region.

general power outlet, for Schedule 4—see Schedule 4, section 1A.

modification application has the same meaning as in the *Environmental Planning and Assessment Regulation 2021*.

relevant authority means the following—

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

residential apartment development—see section 144.

tenanted component, of a building, means the dwellings referred to in section 72(3)(a), including the common spaces and shared facilities provided for the use of the residents of the dwellings.

Western Parkland City means the land described as the Western Parkland City in the Six Cities Region.

Note— The Act, Schedule 9 sets out the local government areas in each city in the Six Cities Region.

[75] Schedule 10, definition of “accessible area”

Omit paragraphs (a) and (b). Insert instead—

- (a) 800m walking distance of—
 - (i) a public entrance to a railway, metro or light rail station, or
 - (ii) for a light rail station with no entrance—a platform of the light rail station, or
 - (iii) a public entrance to a wharf from which a Sydney Ferries ferry service operates, or

Schedule 2 Amendment of other State environmental planning policies

2.1 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Clause 3B.8 Lot requirements

Insert after clause 3B.8(1)—

- (1A) Despite subclause (1), the area of the parent lot in development carried out by or on behalf of the Aboriginal Housing Office, the Land and Housing Corporation or a registered community housing provider, within the meaning of *State Environmental Planning Policy (Housing) 2021*, must not be less than 400m².

2.2 State Environmental Planning Policy (Planning Systems) 2021

[1] Schedule 1 State significant development—general

Omit section 26. Insert instead—

26 Housing development carried out by certain public authorities

- (1) Development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation if the development—
- (a) has a capital investment value of more than \$30 million, or
 - (b) will result in more than 75 dwellings.
- (2) Development carried out by or on behalf of Landcom if—
- (a) the development—
 - (i) has a capital investment value of more than \$30 million, or
 - (ii) will result in more than 75 dwellings, and
 - (b) at least 50% of the gross floor area of the development will be used for the purposes of affordable housing.

26A In-fill affordable housing

- (1) Development to which *State Environmental Planning Policy (Housing) 2021*, Chapter 2, Part 2, Division 1 applies if—
- (a) the part of the development that is residential development has a capital investment value of—
 - (i) for development on land in the Eastern Harbour City, Central River City, Western Parkland City or Central Coast City in the Six Cities Region—more than \$75 million, or
Note— The Act, Schedule 9 sets out the local government areas in each city in the Six Cities Region.
 - (ii) for development on other land—more than \$30 million, and
 - (b) the development does not involve development prohibited under an environmental planning instrument applying to the land.
- (2) This section does not apply to—
- (a) development to which *State Environmental Planning Policy (Housing) 2021*, Chapter 3, Part 4 applies, or

(b) a development application made, but not finally determined, before the commencement of this section.

(3) In this section—

residential development has the same meaning as in *State Environmental Planning Policy (Housing) 2021*, section 15B.

[2] Schedule 1, section 27

Omit “Greater Sydney Region” from section 27(1)(a)(i).

Insert instead “Eastern Harbour City, Central River City, Western Parkland City or Central Coast City in the Six Cities Region”.

[3] Schedule 1, section 27(1)(a)(i)

Insert after section 27(1)(a)(i)—

Note— The Act, Schedule 9 sets out the local government areas in each city in the Six Cities Region.

[4] Schedule 1, section 27(3), definition of “Greater Sydney Region”

Omit the definition.

[5] Schedule 2 State significant development—identified sites

Omit section 10.

2.3 State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021

[1] Section 2.6A Savings

Omit the section.

[2] Section 2.6A Savings provisions

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

A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Exceptions to Development Standards) 2023* must be determined as if that policy had not commenced.

2.4 State Environmental Planning Policy (Precincts—Regional) 2021

[1] Section 4.6

Omit the section. Insert instead—

4.6 Application of other environmental planning instruments

The following do not apply to land to which this chapter applies—

- (a) *Snowy River Local Environmental Plan 2013*,
- (b) *State Environmental Planning Policy (Housing) 2021*, Chapter 4,
- (c) *State Environmental Planning Policy (Industry and Employment) 2021*, Chapter 3,
- (d) *Tumut Local Environmental Plan 2012*.

[2] Section 5.50, heading

Omit “**a residential flat building**”. Insert “**residential flat buildings**”.

[3] Section 5.50(2)

Omit the subsection. Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

Schedule 3 Amendment of local environmental plans

3.1 Bayside Local Environmental Plan 2021

[1] Clause 6.13, heading

Omit “**building**”. Insert “**buildings**”.

[2] Clause 6.13(2)

Omit the subclause. Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

3.2 Blacktown Local Environmental Plan 2015

[1] Clause 7.6, heading

Omit “**building**”. Insert “**buildings**”.

[2] Clause 7.6(2)

Omit the subclause. Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

[3] Schedule 1 Additional permitted uses

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

Use of certain land at 1 Whalan Place, Whalan

- (1) This clause applies to Lot 1350, DP 234241 and Lot 1442, DP 543306, 1 Whalan Place, Whalan.
- (2) Development for the purposes of group homes is permitted with development consent.

3.3 Campbelltown Local Environmental Plan 2015

Clause 7.12 Converting serviced apartments to residential flat buildings or shop top housing

Omit subclause (2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential

flat building or shop top housing unless the consent authority has considered the following in relation to the residential flat building or shop top housing—

- (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
- (b) the Apartment Design Guide within the meaning of that policy.

3.4 Central Coast Local Environmental Plan 2022

Clause 1.9 Application of SEPPs

Omit “*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*” from clause 1.9(2A).

Insert instead “*State Environmental Planning Policy (Housing) 2021*, Chapter 4”.

3.5 Georges River Local Environmental Plan 2021

Clause 6.12 Landscaped areas in certain residential and conservation zones

Omit “development referred to in *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*, clause 4” from clause 6.12(3).

Insert instead “residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*”.

3.6 Great Lakes Local Environmental Plan 2014

Clause 7.12 Converting serviced apartments to residential flat buildings

Omit clause 7.12(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

3.7 Kiama Local Environmental Plan 2011

[1] Clause 6.9 Serviced apartments

Omit “subdivision, under a strata scheme, of a building or part of a building that is being, or has ever been, used for serviced apartments” from clause 6.9(2).

Insert instead “strata subdivision of a building that is or has been used for serviced apartments”.

[2] Clause 6.9(2)(a)

Omit the paragraph. Insert instead—

- (a) the consent authority has considered the following in relation to the development—
 - (i) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,

- (ii) the Apartment Design Guide within the meaning of that policy, and

[3] Clause 6.9(3)

Insert “or *State Environmental Planning Policy (Housing) 2021*, Chapter 4” after “*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*”.

3.8 Liverpool Local Environmental Plan 2008

Clause 7.19 Serviced apartments

Omit clause 7.19(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments unless the consent authority has considered the following in relation to the development—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

3.9 Newcastle Local Environmental Plan 2012

[1] Clause 6.3 Serviced apartments

Omit clause 6.3(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments unless the consent authority has considered the following in relation to the development—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

[2] Clause 6.3(3)

Insert “or *State Environmental Planning Policy (Housing) 2021*, Chapter 4” after “*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*”.

3.10 North Sydney Local Environmental Plan 2013

Clause 6.11 Converting serviced apartments to residential flat buildings

Omit clause 6.11(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

3.11 Parramatta Local Environmental Plan 2023

Clause 7.8 Serviced apartments

Omit clause 7.8(2). Insert instead—

- (2) Development consent must not be granted to the strata subdivision of a building on land in Zone MUI Mixed Use that is or has been used for serviced apartments unless the consent authority has considered the following—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

3.12 Penrith Local Environmental Plan 2010

Clause 7.26

Omit the clause. Insert instead—

7.26 Serviced apartments

Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments unless the consent authority has considered the following in relation to the development—

- (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
- (b) the Apartment Design Guide within the meaning of that policy.

3.13 Pittwater Local Environmental Plan 2014

Clause 7.11 Converting serviced apartments to residential flat buildings

Omit clause 7.11(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

3.14 Strathfield Local Environmental Plan 2012

[1] Clause 6.5, heading

Omit “**building**”. Insert “**buildings**”.

[2] Clause 6.5(2)

Omit the subclause. Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,

- (b) the Apartment Design Guide within the meaning of that policy.

3.15 Sydney Local Environmental Plan 2005

Clause 117A Serviced apartments

Omit clause 117A(2)(a) and (b). Insert instead—

- (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
- (b) the Apartment Design Guide within the meaning of that policy.

3.16 Sydney Local Environmental Plan 2012

Clause 7.28 Serviced apartments

Omit clause 7.28(2)(a) and (b). Insert instead—

- (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
- (b) the Apartment Design Guide within the meaning of that policy.

3.17 Sydney Local Environmental Plan (Green Square Town Centre) 2013

Clause 6.12 Serviced apartments

Omit clause 6.12(2)(a) and (b). Insert instead—

- (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
- (b) the Apartment Design Guide within the meaning of that policy.

3.18 Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013

Clause 6.12 Serviced apartments

Omit clause 6.12(2)(a) and (b). Insert instead—

- (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
- (b) the Apartment Design Guide within the meaning of that policy.

3.19 The Hills Local Environmental Plan 2019

[1] Clause 7.19 Development in Zones MU1 and SP4 for purposes of serviced apartments

Omit clause 7.19(5)(a) and (b).

[2] Clause 7.19(6)

Omit the subclause. Insert instead—

- (6) Development consent must not be granted under subclause (4) unless the consent authority has considered the following in relation to the residential flat building—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

3.20 Tweed City Centre Local Environmental Plan 2012

[1] Clause 6.7 Serviced apartments

Omit clause 6.7(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments unless the consent authority has considered the following in relation to the development—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.

[2] Clause 6.7(3)

Insert “or *State Environmental Planning Policy (Housing) 2021*, Chapter 4” after “*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*”.

3.21 Willoughby Local Environmental Plan 2012

[1] Section 1.9 Application of SEPPs

Omit section 1.9(2A).

[2] Clause 6.9 Serviced apartments

Omit clause 6.9(3) and the note. Insert instead—

- (3) Development consent must not be granted for the change of use from serviced apartments to a residential flat building, with or without strata subdivision, unless the consent authority has considered the Apartment Design Guide, within the meaning of *State Environmental Planning Policy (Housing) 2021*, in relation to the residential flat building.

3.22 Wollongong Local Environmental Plan 2009

Clause 7.12 Serviced apartments

Omit clause 7.12(2). Insert instead—

- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments unless the consent authority has considered the following in relation to the development—
 - (a) the design principles for residential apartment development within the meaning of *State Environmental Planning Policy (Housing) 2021*,
 - (b) the Apartment Design Guide within the meaning of that policy.