



New South Wales

State Environmental Planning Policy (Housing) 2021

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*.

Minister for Planning and Public Spaces

Contents

	Page
Chapter 1 Preliminary	
1 Name of Policy	6
2 Commencement	6
3 Aims of Policy	6
4 Interpretation—general	6
5 Interpretation—references to equivalent land use zones	7
6 Development permitted without consent	7
7 Land to which Policy applies	7
8 Relationship with other environmental planning instruments	8
9 Suspension of covenants, agreements and instruments	8
10 Repeals	8
11 Maps	9
Chapter 2 Affordable housing	
Part 1 Preliminary	
12 Affordable housing—the Act, s 1.4(1)	10
13 Need for affordable housing and imposition of conditions—the Act, s 7.32(1)	10
14 Requirement for imposition of conditions—the Act, s 7.32(3)(a)	10
Part 2 Development for affordable housing	
Division 1 In-fill affordable housing	
15 Development to which Division applies	10
16 Floor space ratio	11
17 Non-discretionary development standards—the Act, s 4.15	12
18 Design requirements	13
19 Continued application of SEPP 65	13
20 Must be used for affordable housing for at least 15 years	13
21 Subdivision permitted with consent	13
Division 2 Boarding houses	
22 Boarding houses permitted with consent	13
23 Non-discretionary development standards—the Act, s 4.15	14
24 Standards for boarding houses	15
25 Must be used for affordable housing in perpetuity	16
26 Subdivision of boarding houses not permitted	16
Division 3 Boarding houses—Land and Housing Corporation	
27 Development to which Division applies	16
28 Boarding houses permitted without development consent	16
29 Requirements before carrying out development	17
30 Exempt development	17
31 Subdivision of boarding houses not permitted	17

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Contents

	Page
Division 4 Supportive accommodation	
32 Land to which Division applies	17
33 Development to which Division applies	17
34 Development may be carried out without consent	18
Division 5 Residential flat buildings—social housing providers, public authorities and joint ventures	
35 Land to which Division applies	18
36 Development to which Division applies	18
37 Development may be carried out with consent	18
38 Site compatibility certificates	19
39 Must be used for affordable housing for 10 years	20
40 Continued application of SEPP 65	20
Part 3 Retention of existing affordable rental housing	
41 Interpretation	20
42 Buildings to which Part applies	21
43 Reduction of availability of affordable housing	21
44 Contributions for affordable housing—the Act, s 7.32	22
Chapter 3 Diverse housing	
Part 1 Secondary dwellings	
45 Definition	24
46 Application of Part	24
47 Development may be carried out with consent	24
48 Non-discretionary development standards—the Act, s 4.15	24
49 Complying development	25
50 Complying development—development for secondary dwellings and principal dwellings at same time	25
51 Conditions of complying development	26
52 No subdivision	26
53 Development standards for bush fire prone land	26
54 Development standards for flood control lots	27
55 Development standards for land near Siding Spring Observatory	28
Part 2 Group homes	
56 Definitions	29
57 Development in prescribed zones	29
58 Exempt development existing group homes	29
59 Complying development	30
60 Determination of development applications	30
61 Development standards for flood control lots	30
62 Development standards for land near Siding Spring Observatory	32
Part 3 Co-living housing	
63 Co-living housing may be carried out on certain land with consent	32
64 Non-discretionary development standards—the Act, s 4.15	32
65 Standards for co-living housing	33

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Contents

	Page
66 No subdivision	34
Part 4 Seniors housing	
Division 1 Land to which Part applies	
67 Land to which Part applies	34
68 Land to which Part does not apply—general	35
69 Land to which Part does not apply—heritage conservation areas in Greater Sydney region	35
70 Land to which Part does not apply—metropolitan rural areas in Greater Sydney region	36
71 Seniors housing permitted with consent	36
Division 2 Preliminary	
72 Definitions	36
73 Amendments to the bush fire evacuation risk map	37
Division 3 Development standards	
74 Development standards—general	37
75 Development standards for hostels and independent living units	38
76 Development standards for seniors housing—Zones RE2, SP1, RU5 and R2	38
77 Restrictions on occupation of seniors housing	39
78 Use of ground floor of seniors housing in commercial zones	39
79 Subdivision	39
80 Fire sprinkler systems in residential care facilities	39
81 Development on land used for the purposes of an existing registered club	39
Division 4 Site-related requirements	
82 Location and access to facilities and services—independent living units	40
83 Location and access to facilities and services—residential care facilities	41
84 Bush fire prone land	41
Division 5 Design requirements	
85 Design of in-fill self-care housing	42
86 Design of seniors housing	42
Division 6 Design principles	
87 Neighbourhood amenity and streetscape	42
88 Visual and acoustic privacy	43
89 Solar access and design for climate	43
90 Stormwater	43
91 Crime prevention	43
92 Accessibility	44
93 Waste management	44
Division 7 Non-discretionary development standards	
94 Interrelationship of Division with design principles in Division 5	44
95 Division does not apply to certain development applications relating to heritage-affected land	44

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Contents

	Page	
96	Non-discretionary development standards for hostels and residential care facilities—the Act, s 4.15	44
97	Non-discretionary development standards for independent living units—the Act, s 4.15	45
Division 8 Development for vertical villages		
98	Development to which Division applies	46
99	Development for vertical villages permitted with consent	46
100	Non-discretionary development standards for vertical villages—the Act, s 4.15	46
Schedule 1	Affordable housing principles	48
Schedule 2	Complying development—secondary dwellings	49
Schedule 3	Complying development—group homes	59
Schedule 4	Environmentally sensitive land	68
Schedule 5	Standards concerning accessibility and useability for hostels and independent living units	69
Schedule 6	Provisions consequent on commencement of State Environmental Planning Policy (Housing) 2021	73
Schedule 7	Amendment of other environmental planning instruments	74
Schedule 8	Amendment of local environmental plans	75
Dictionary		91

State Environmental Planning Policy (Housing) 2021

under the

Environmental Planning and Assessment Act 1979

Chapter 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Housing) 2021*.

2 Commencement

- (1) This Policy commences on the day on which it is published on the NSW legislation website.
- (2) Chapter 3, Part 8 commences on 1 November 2021.

3 Aims of Policy

The aims of this Policy are as follows—

- (a) to ensure an adequate supply of an appropriate range of housing types to meet the changing needs of people across the State, including the following—
 - (i) seniors,
 - (ii) people with a disability,
 - (iii) households on very low, low or moderate incomes,
 - (iv) people experiencing homelessness or people experiencing other disadvantages who may require a model of accommodation that incorporates support services,
- (b) to provide greater clarity and certainty for the housing sector,
- (c) to encourage the development of diverse and affordable housing types by—
 - (i) providing a consistent planning regime for the provision of new affordable housing,
 - (ii) providing incentives for certain types of development,
 - (iii) facilitating the delivery of new housing by the Land and Housing Corporation,
- (d) to support short-term rental accommodation as a home sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,
- (e) to mitigate the loss of existing affordable rental housing,
- (f) to encourage the development of housing that is designed and located in a manner that meets the needs of residents, especially seniors or people with a disability.

4 Interpretation—general

- (1) The Dictionary defines words used in this Policy.

public consultation draft

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

- (2) Unless otherwise defined in this Policy, words used in this Policy, other than in Schedule 2 or 3, have the same meaning as in the standard instrument.

5 Interpretation—references to equivalent land use zones

- (1) A reference in this Policy to an equivalent land use zone is a reference to a land use zone under a non-standard instrument that—
- (a) the Planning Secretary has determined under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, section 1.6 is a land use zone in which equivalent land uses are permitted to the land uses permitted in a named land use zone, or
 - (b) if no determination has been made in respect of the zone—is a land use zone in which, in the opinion of the relevant authority, equivalent land uses are permitted to the land uses permitted in a named land use zone.
- (2) In relation to an assessment made by a relevant authority under subsection (1)(b)—
- (a) the assessment applies only in respect of the development proposed to be carried out, and
 - (b) more than 1 assessment may be made in respect of the same land use zone.
- (3) Despite subsection (1), in relation to land to which both a non-standard instrument and a draft standard instrument applies, a reference in this Policy to a lot or land in an equivalent land use zone is a reference to the lot or land in the named land use zone in the draft standard instrument.
- (4) In this section—

draft standard instrument means a draft environmental planning instrument—

- (a) in the form referred to in the Act, section 3.20(2), and
- (b) in relation to which the community participation requirements referred to in the Act, Schedule 1, section 4 have been met.

equivalent land use zone means a land use zone equivalent to a named land use zone.

named land use zone means a land use zone named in the standard instrument.

non-standard instrument means an environmental planning instrument that is not made as provided by the Act, section 3.20(2).

relevant authority means—

- (a) the public authority proposing to carry out the development, or on whose behalf the development is proposed to be carried out, or
- (b) if the development is to be carried out by or on behalf of a person other than a public authority, the consent authority.

6 Development permitted without consent

In this Policy, development permitted without consent may be carried out without another consent or a licence, permission, approval or authorisation otherwise required under another environmental planning instrument.

Note— Development permitted without consent may be subject to environmental assessment and approval requirements in the Act, Part 5.

7 Land to which Policy applies

This Policy applies to the State.

8 Relationship with other environmental planning instruments

Unless otherwise specified in this Policy, if there is an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

9 Suspension of covenants, agreements and instruments

- (1) For the purposes of enabling development to be carried out in accordance with this Policy or with a development consent granted under the Act, an agreement, a covenant or another similar instrument that restricts the carrying out of the development does not apply to the extent necessary to serve that purpose.
- (2) Subsection (1) does not apply to—
 - (a) a covenant imposed by the Council or that the Council requires to be imposed, or
 - (b) a biodiversity certification conferred under the *Biodiversity Conservation Act 2016*, Part 8, or
 - (c) a private land conservation agreement within the meaning of the *Biodiversity Conservation Act 2016*, or
 - (d) a relevant instrument within the meaning of the *Crown Land Management Act 2016*, section 13.4, or
 - (e) the relevant provisions of a land management (native vegetation) code, and the necessary mandatory code compliant certificate, for a set aside area under the *Local Land Services Act 2013*, Part 5A, or
 - (f) a conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
 - (g) a property vegetation plan within the meaning of the *Native Vegetation Act 2003* that is continued in force by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, or
 - (h) a Trust agreement within the meaning of the *Nature Conservation Trust Act 2001* that is continued in force by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, or
 - (i) a planning agreement within the meaning of the Act, Division 7.1, or
 - (j) a covenant in favour of Sydney Water Corporation or a water supply authority listed in the *Water Management Act 2000*, Schedule 3.
- (3) This section does not affect the rights or interests of a public authority under a registered instrument.
- (4) Before this Policy was made, the Governor approved this section under the Act, section 3.16.

10 Repeals

The following environmental planning instruments are repealed—

- (a) *State Environmental Planning Policy (Affordable Rental Housing) 2009*,
- (b) *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*,
- (c) *State Environmental Planning Policy No 21—Caravan Parks*,
- (d) *State Environmental Planning Policy No 36—Manufactured Home Estates*,
- (e) *State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)*.

11 Maps

- (1) A reference in this Policy to a named map adopted by this Policy is a reference to a map by that name—
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace the map, and approved by the persons making the environmental planning instruments when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map.
- (3) In that case, a reference in this Policy to the named map is a reference to the relevant part or aspect of the single map.
- (4) Maps adopted by this Policy must be kept and made available for public access in accordance with arrangements approved by the Minister.
- (5) For the purposes of this Policy, a map may be in, and may be kept and made available in, electronic or paper form, or both.

Chapter 2 Affordable housing

Part 1 Preliminary

12 Affordable housing—the Act, s 1.4(1)

- (1) In this Policy, a household is taken to be a very low income household, low income household or moderate income household if the household—
 - (a) has a gross income within the following ranges of percentages of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) or the Rest of NSW (Greater Capital City Statistical Area) and pays no more than 30% of that gross income in rent—
 - (i) very low income household—less than 50%,
 - (ii) low income household—50–less than 80%,
 - (iii) moderate income household—80–120%, or
 - (b) is eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under the Scheme.
- (2) In this section—

Greater Sydney (Greater Capital City Statistical Area) means the area that the Australian Bureau of Statistics determines from time to time to be the Greater Sydney (Greater Capital City Statistical Area).

National Rental Affordability Scheme has the same meaning as in the *National Rental Affordability Scheme Act 2008* of the Commonwealth.

Rest of NSW (Greater Capital City Statistical Area) means the area that the Australian Bureau of Statistics determines from time to time to be the Rest of NSW (Greater Capital City Statistical Area).

13 Need for affordable housing and imposition of conditions—the Act, s 7.32(1)

This Policy identifies that there is a need for affordable housing within each area of the State.

14 Requirement for imposition of conditions—the Act, s 7.32(3)(a)

The following requirement is prescribed for the imposition of conditions under the Act, section 7.32 on development consents—
A consent authority must have regard to the affordable housing principles set out in Schedule 1 before imposing a condition.

Part 2 Development for affordable housing

Division 1 In-fill affordable housing

15 Development to which Division applies

- (1) This Division applies to residential development if—
 - (a) the development is permitted with consent under another environmental planning instrument, and
 - (b) the development is on non-heritage land, and
 - (c) at least 20% of the gross floor area of the development will be used for the purposes of affordable housing, and

public consultation draft

- (d) for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area, and
 - (e) for development on other land—all or part of the development is within 400m walking distance of land within Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use, or within an equivalent land use zone.
- (2) In this section—
- Newcastle region** means land within the following local government areas—
- (a) Cessnock,
 - (b) Lake Macquarie,
 - (c) Maitland,
 - (d) Newcastle,
 - (e) Port Stephens.
- residential development** means development for the following purposes—
- (a) attached dwellings,
 - (b) dual occupancies,
 - (c) dwelling houses,
 - (d) manor houses,
 - (e) multi dwelling housing,
 - (f) multi dwelling housing (terraces),
 - (g) residential flat buildings,
 - (h) semi-detached dwellings.
- Wollongong region** means land within the following local government areas—
- (a) Kiama,
 - (b) Shellharbour,
 - (c) Wollongong.

16 Floor space ratio

- (1) Subject to subsection (2), the maximum floor space ratio for development to which this Division applies is the maximum permissible floor space ratio for residential accommodation on the land plus an **additional floor space ratio** of—
- (a) if the maximum permissible floor space ratio is 2.5:1 or less—
 - (i) if at least 50% of the gross floor area of the development will be used for affordable housing—0.5:1, or
 - (ii) if less than 50% of the gross floor area of the development will be used for affordable housing—Y:1, where—

AH is the percentage of the gross floor area of the development used for affordable housing.

$$Y = AH \div 100$$
- or
- (b) if the maximum permissible floor space ratio is more than 2.5:1—
 - (i) if at least 50% of the gross floor area of the development will be used for affordable housing—20% of the maximum permissible floor space ratio, or

- (ii) if less than 50% of the gross floor area of the development will be used for affordable housing— $Z\%$ of the maximum permissible floor space ratio, where—

AH is the percentage of the gross floor area of the development used for affordable housing.

$$Z = AH \div 2.5$$

- (2) The additional floor space ratio must be used for the purposes of affordable housing.

17 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 development for the purposes of in-fill affordable housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.
- (2) The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies—
 - (a) a minimum site area of 450m^2 ,
 - (b) for a development application made by a social housing provider—at least 35m^2 of landscaped area per dwelling,
 - (c) if paragraph (b) does not apply—at least 30% of the site area is landscaped area,
 - (d) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 6m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site,
 - (e) 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,
 - (f) for a development application made by a social housing provider for development on land in an accessible area—
 - (i) for each 1-bedroom dwelling—at least 0.4 parking space, or
 - (ii) for each 2-bedroom dwelling—at least 0.5 parking space, or
 - (iii) for each dwelling with at least 3 bedrooms—at least 1 parking space,
 - (g) if paragraph (f) does not apply—
 - (i) for each 1-bedroom dwelling—at least 0.5 parking space, or
 - (ii) for each 2-bedroom dwelling—at least 1 parking space, or
 - (iii) for each dwelling with at least 3 bedrooms—at least 1.5 parking spaces,
 - (h) for development for the purposes of a residential flat building—the minimum internal area specified in the Apartment Design Guide for each type of apartment,
 - (i) for development for the purposes of a dual occupancy, manor house or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,
 - (j) if paragraphs (h) and (i) do not apply, the following minimum floor areas—
 - (i) for each 1-bedroom dwelling— 65m^2 , or
 - (ii) for each 2-bedroom dwelling— 90m^2 , or
 - (iii) for each dwelling with at least 3 bedrooms— 115m^2 plus 12m^2 for each bedroom in addition to 3 bedrooms.

18 Design requirements

- (1) Development consent must not be granted to development to which this Division applies unless the consent authority has considered the following, to the extent to which they are not inconsistent with this Policy—
 - (a) the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004,
 - (b) for development for the purposes of a dual occupancy, manor house or multi dwelling housing (terraces)—the Low Rise Housing Diversity Design Guide.
- (2) Subsection (1) does not apply to development to which *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* applies.
- (3) Development consent must not be granted to development to which this Division applies unless the consent authority has considered whether the design of the development is compatible with the character of the local area.

19 Continued application of SEPP 65

Nothing in this Policy affects the application of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* to development to which this Division applies.

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

- (1) Development consent must not be granted 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—
 - (a) the affordable housing component of the development will be used for affordable housing, and
 - (b) the affordable housing component will be managed by a registered community housing provider.
- (2) Subsection (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by, or on behalf of, a public authority.
- (3) In this section—
affordable housing component, in relation to development to which this Division applies, means the dwellings used for the purposes of affordable housing in accordance with section 15(1)(c).

21 Subdivision permitted with consent

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

Division 2 Boarding houses

22 Boarding houses permitted with consent

- (1) Development for the purposes of a boarding house may be carried out with consent on land on which development for the purposes of a boarding house is permitted with consent under another environmental planning instrument.
- (2) Development for the purposes of a boarding house must not be carried out on land in Zone R2 Low Density Residential or an equivalent land use zone unless—

- (a) for land in the Greater Sydney region—the land is within an accessible area, or
- (b) otherwise—all or part of the development is within 400m walking distance of land in Zone B2 Local Centre or Zone B4 Mixed Use, or an equivalent land use zone.

23 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 development for the purposes of a boarding house that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.
- (2) The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies—
 - (a) for development on non-heritage land in a zone in which residential flat buildings are permitted—a floor space ratio not exceeding—
 - (i) the maximum permissible floor space ratio for residential accommodation on the land, and
 - (ii) an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the boarding house,
 - (b) if paragraph (a) does not apply—a floor space ratio not exceeding the maximum permissible floor space ratio for residential accommodation on the land,
 - (c) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,
 - (d) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument,
 - (e) at least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area,
 - (f) for a boarding house containing 6 boarding rooms—
 - (i) a total of at least 30m² of communal living area, and
 - (ii) minimum dimensions of 3m for each communal living area,
 - (g) for a boarding house containing more than 6 boarding rooms—
 - (i) a total of at least 30m² of communal living area plus at least a further 2m² for each boarding room in excess of 6 boarding rooms, and
 - (ii) minimum dimensions of 3m for each communal living area,
 - (h) communal open spaces—
 - (i) with a total area of at least 20% of the site area, and
 - (ii) each with minimum dimensions of 3m,
 - (i) for development carried out by or on behalf of a social housing provider—
 - (i) in an accessible area—at least 0.2 parking space for each boarding room, or
 - (ii) otherwise—at least 0.4 parking space for each boarding room,
 - (j) if paragraph (h) does not apply—
 - (i) for development within the Greater Sydney region—at least 0.5 parking space for each boarding room, or
 - (ii) otherwise—at least 1 parking space for each boarding room,
 - (k) at least 1 motorcycle parking space for every 5 boarding rooms,

- (l) at least 1 bicycle parking space for each boarding room.
- (3) In this section—
social housing provider does not include a registered community housing provider unless the registered community housing provider is a registered entity within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth.

24 Standards for boarding houses

- (1) Development consent must not be granted under this Division unless the consent authority is satisfied that—
 - (a) the design of the development will be compatible with the character of the local area, and
 - (b) no boarding room will have a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of more than 25m², and
 - (c) no boarding room will be occupied by more than 2 adult residents, and
 - (d) adequate bathroom, kitchen and laundry facilities will be available within the boarding house for the use of each resident, and
 - (e) for a boarding house on land in Zone R2 Low Density Residential or an equivalent land use zone—the boarding house will not have more than 12 boarding rooms, and
 - (f) for a boarding house on land zoned primarily for commercial purposes—no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and
 - (g) for a boarding house containing at least 6 boarding rooms—the boarding house will have at least 1 communal living room, and
 - (h) the minimum lot size for the development is not less than—
 - (i) for development on land in Zone R2 Low Density Residential—the minimum lot size requirements for manor houses under a relevant planning instrument, or 600m²,
 - (ii) for development on land in Zone R3 Medium Density Residential—the minimum lot size requirements for multi dwelling housing under a relevant planning instrument,
 - (iii) for development on other land—the minimum lot size requirements for residential flat buildings under a relevant planning instrument,
 - (i) the front, side and rear setbacks for the development are not less than—
 - (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument,
 - (ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument,
 - (j) if the boarding house exceeds 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide,
 - (k) the development has a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of at least the following for each boarding room—

public consultation draft

- (i) for a boarding room intended to be used by a single resident—12m²,
 - (ii) otherwise—16m².
- (2) Subsection (1)(f) does not apply to a part of a building that—
 - (a) faces a service lane that does not require active street frontages, or
 - (b) is used for any of the following purposes—
 - (i) a lobby for a residential, serviced apartment, hotel or tenanted component of the building,
 - (ii) access for fire services,
 - (iii) vehicular access.
- (3) This section does not apply to development for the purposes of minor alterations or additions to an existing boarding house.

25 Must be used for affordable housing in perpetuity

- (1) Development consent must not be granted under this Division unless the consent authority is satisfied that from the date of the issue of the occupation certificate and continuing in perpetuity—
 - (a) the boarding house will be used for affordable housing, and
 - (b) the boarding house will be managed by a registered community housing provider.
- (2) Subsection (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by a public authority.

26 Subdivision of boarding houses not permitted

Development consent must not be granted for the subdivision of a boarding house permitted under this Division.

Division 3 Boarding houses—Land and Housing Corporation

27 Development to which Division applies

- (1) This Division applies to development for the purposes of a boarding house on land—
 - (a) on which development for the purposes of a boarding house is permitted with consent under another environmental planning instrument, or
 - (b) subject to subsection (2), in Zone R2 Low Density Residential or an equivalent land use zone.
- (2) This Division does not apply to development for the purposes of a boarding house on land in Zone R2 Low Density Residential or an equivalent land use zone unless—
 - (a) for land in the Greater Sydney region—the land is within an accessible area, or
 - (b) otherwise—all or part of the development is within 400m walking distance of land in Zone B2 Local Centre or Zone B4 Mixed Use, or an equivalent land use zone.

28 Boarding houses permitted without development consent

Development to which this Division applies may be carried out by or on behalf of the Land and Housing Corporation without development consent if—

- (a) the development complies with the standards specified in sections 23(2) and 24(1), and
- (b) the development will not result in a building exceeding a height of 8.5m, and

- (c) for development on land in Zone R2 Low Density Residential or an equivalent land use zone—the boarding house will not have more than 12 boarding rooms.

29 Requirements before carrying out development

- (1) Before carrying out development to which this Division applies, the Land and Housing Corporation must—
 - (a) request the council nominate a person or persons who should, in the council’s opinion, be notified of the development, and
 - (b) give written notice of the intention to carry out the development to the council, to the person or persons nominated by the council and to the occupiers of adjoining land, and
 - (c) take into account responses, if any, to the notice that are received within 21 days after the notice is given, and
 - (d) consider the *Good Design for Social Housing* and the *Land and Housing Corporation Dwelling Requirements*, published in September 2020 on the website of the Land and Housing Corporation, to the extent they are not inconsistent with this Division.
- (2) *State Environmental Planning Policy (Infrastructure) 2007*, sections 16 and 17 apply to the development and, in the application of the sections, a reference in the sections to—
 - (a) the Policy is taken to be a reference to section 27, and
 - (b) a public authority is taken to be a reference to the Land and Housing Corporation.
- (3) 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 located.

30 Exempt development

Development for the purposes of landscaping and gardening is exempt development if it is carried out by or on behalf of the Land and Housing Corporation in relation to a boarding house.

31 Subdivision of boarding houses not permitted

Despite another provision of this Policy, development consent must not be granted for the subdivision of a boarding house permitted under this Division.

Division 4 Supportive accommodation

32 Land to which Division applies

This Division applies to land on which development for the purposes of a residential flat building or boarding house is permissible under another environmental planning instrument.

33 Development to which Division applies

- (1) This Division applies to development for the purposes of supportive accommodation on land to which this Division applies.
- (2) In this section—
supportive accommodation means the use of an existing residential flat building or boarding house—

- (a) to provide long-term accommodation, in a separate dwelling or boarding room, for a person who needs supervision and support services on-site, and
Example— A former homeless person.
- (b) to provide the supervision and support services, including the following—
 - (i) medical services,
 - (ii) counselling services,
 - (iii) education and training services,
 - (iv) administrative services.

34 Development may be carried out without consent

Development to which this Division applies is permitted without consent if the development does not involve the erection or alteration of, or an addition to, a building.

Division 5 Residential flat buildings—social housing providers, public authorities and joint ventures

35 Land to which Division applies

- (1) This Division applies to the following land—
 - (a) land in the Greater Sydney region within 800m of—
 - (i) a public entrance to a railway station or light rail station, or
 - (ii) for a light rail station with no entrance—a platform of the light rail station,
 - (b) land in the following towns within 400m of land in Zone B3 Commercial Core or Zone B4 Mixed Use, or an equivalent land use zone—
Albury, Ballina, Batemans Bay, Bathurst, Bega, Bowral, Cessnock, Charlestown, Coffs Harbour, Dapto, Dubbo, Glendale–Cardiff, Gosford, Goulburn, Grafton, Lismore, Maitland, Morisset, Newcastle, Nowra, Orange, Port Macquarie, Queanbeyan, Raymond Terrace, Shellharbour, Tamworth, Taree, Tuggerah–Wyong, Tweed Heads, Wagga Wagga, Warrawong, Wollongong.
- (2) This Division does not apply to land on which development for the purposes of residential flat buildings is permitted under another environmental planning instrument.

36 Development to which Division applies

- (1) This Division applies to development for the purposes of residential flat buildings carried out on land to which this Division applies—
 - (a) by or on behalf of a public authority or social housing provider, or
 - (b) by a person who is undertaking the development with the Land and Housing Corporation.
- (2) This Division does not apply to development to which this Part, Division 1 applies.

37 Development may be carried out with consent

- (1) Development to which this Division applies may be carried out with consent.
- (2) Development consent must not be granted under this Division unless the consent authority is satisfied that—

- (a) the Planning Secretary has certified in a site compatibility certificate that, in the Planning Secretary's opinion, the development is compatible with the surrounding land uses, and
 - (b) if the development relates to a building on land zoned primarily for commercial purposes—no part of the ground floor of the building that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use.
- (3) Subsection (2)(b) does not apply to a part of a building that—
- (a) faces a service lane that does not require active street frontages, or
 - (b) is used for any of the following purposes—
 - (i) a lobby for a residential, serviced apartment, hotel or tenanted component of the building,
 - (ii) access for fire services,
 - (iii) vehicular access.
- (4) Nothing in this section prevents a consent authority from—
- (a) consenting to development on a site by reference to site and design features that are more stringent than the ones identified in a site compatibility certificate for the same site, or
 - (b) refusing consent to development by reference to the consent authority's own assessment of the compatibility of the development with the surrounding land uses, or
 - (c) having regard to another matter in determining a development application.
- (5) Car parking is not required to be provided in relation to development to which this Division applies.

38 Site compatibility certificates

- (1) An application for a site compatibility certificate under this Division may be made to the Planning Secretary—
 - (a) by the owner of the land on which the development is proposed to be carried out, or
 - (b) by another person with the consent of the owner of the land.
- (2) An application—
 - (a) must be in a written form approved by the Planning Secretary, and
 - (b) must be accompanied by the documents and information required by the Planning Secretary, and
 - (c) must be accompanied by the fee, if any, prescribed by the regulations.
- (3) The Planning Secretary may request further documents and information to be furnished in connection with an application.
- (4) Within 7 days after the application is made, the Planning Secretary must provide a copy of the application to the council for the area in which the development is proposed to be carried out, unless the Planning Secretary refuses, before the 7 days have elapsed, to issue a certificate.
- (5) The Planning Secretary may determine the application by issuing a certificate or refusing to do so.
- (6) The Planning Secretary must not issue a certificate unless the Planning Secretary—

- (a) has taken into account comments, if any, received from the council within 14 days after the application for the certificate was made, and
 - (b) is of the opinion that the development is compatible with the surrounding land uses having regard to the following matters—
 - (i) the existing uses and approved uses of land in the vicinity of the development,
 - (ii) the impact that the development, including its bulk and scale, is likely to have on the existing uses, approved uses and uses that, in the opinion of the Planning Secretary, are likely to be the preferred future uses of the land,
 - (iii) the services and infrastructure that are or will be available to meet the demands arising from the development, and
 - (c) is of the opinion that the development is not likely to have an adverse effect on the environment and will not cause unacceptable environmental risks to the land.
- (7) A certificate may certify that the development to which it relates is compatible with the surrounding land uses only if it satisfies certain requirements specified in the certificate.
- (8) A certificate continues to apply to the land in respect of which it was issued despite a change in the ownership of the land.
- (9) A certificate is valid for 5 years or otherwise, the period specified in the certificate.

39 Must be used for affordable housing for 10 years

- (1) Development consent must not be granted under this Division unless the consent authority is satisfied that for 10 years from the date of the issue of an occupation certificate—
- (a) at least 50% of the dwellings to which the development relates will be used for affordable housing, and
 - (b) the dwellings used for affordable housing will be managed by a registered community housing provider.
- (2) Subsection (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by a public authority.

40 Continued application of SEPP 65

Nothing in this Policy affects the application of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* to development to which this Division applies.

Part 3 Retention of existing affordable rental housing

Note— Development that would otherwise be complying development cannot be carried out in relation to low-rental dwellings or low-rental residential buildings.

41 Interpretation

- (1) In this Part—
- comparable accommodation** means accommodation comparable with accommodation provided within a building the subject of a development application lodged under this Part (**Part 3 accommodation**) because—
- (a) it is in the same or a neighbouring suburb, and

- (b) it is let at the same rental level, or not more than 5% higher than the rental level of the Part 3 accommodation, and
- (c) it is available for occupation on the day the development application is lodged, and
- (d) for residential flat buildings—it comprises dwellings with the same number of bedrooms as the dwellings in the Part 3 accommodation.

guidelines means the *Guidelines for the Retention of Existing Affordable Rental Housing*, approved by the Planning Secretary and published in the Gazette.

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

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

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

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

Rent and Sales Report means the *Rent and Sales Report* published by Services Australia or a publication issued in place of the publication by or on behalf of the Government.

42 Buildings to which Part applies

- (1) This Part applies to a low-rental residential building on land within the following areas—
 - (a) the Greater Sydney region,
 - (b) the local government area of Newcastle,
 - (c) the local government area of Wollongong.
- (2) This Part does not apply to a building—
 - (a) that has been approved for subdivision under the *Strata Schemes Development Act 2015*, or
 - (b) to which Chapter 3, Part 5 applies, or
 - (c) owned by, or under the care, control and management of, a social housing provider.

43 Reduction of availability of affordable housing

- (1) A person must not do the following in relation to a building to which this Part applies except with development consent—
 - (a) demolish the building,
 - (b) alter or add to the structure or fabric of the inside or outside of the building,
 - (c) change the use of the building to another use, including, in particular, a change of use to backpackers accommodation,

- (d) if the building is a residential flat building—strata subdivide the building.
- (2) Before granting consent under subsection (1), the consent authority must take into account the guidelines and the following—
 - (a) whether there is likely to be a reduction in affordable housing on the land to which the application relates,
 - (b) whether there is available sufficient comparable accommodation to satisfy the demand for the accommodation,
 - (c) whether the development is likely to cause adverse social and economic effects on the general community,
 - (d) whether adequate arrangements have been made to assist the residents, if any, of the building likely to be displaced to find alternative comparable accommodation,
 - (e) the extent to which the development contributes to any cumulative loss of affordable housing in the local government area,
 - (f) the structural soundness of the building, the extent to which the building complies with relevant fire safety requirements, if any, and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements,
 - (g) whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development,
 - (h) for a boarding house—the financial viability of the continued use of the boarding house.
- (3) For the purposes of subsection (2)(b), sufficient comparable accommodation is conclusively taken to be not available if the average vacancy rate in private rental accommodation for Sydney as published monthly by the Real Estate Institute of New South Wales is, for the 3 months immediately preceding the date of lodgment of the development application, less than 3%.
- (4) For the purposes of subsection (2)(h), the continued use of a boarding house is financially viable if the rental yield of the boarding house calculated under section 44(4) is at least 6%.

44 Contributions for affordable housing—the Act, s 7.32

- (1) The following requirements are prescribed for the imposition of conditions on development consents granted under section 43(1)—
 - (a) the consent authority must be satisfied the development will, or is likely to, reduce the availability of affordable housing in the area,
 - (b) the condition must be imposed in accordance with the scheme for dedications or contributions set out in subsections (3) and (4).
- (2) Subject to subsection (4), the amount of the contribution must be calculated in accordance with the following formula—

$$C = L \times R \times 0.05$$

where—

C is the contribution payable.

L is the total number of bedrooms in a low-rental dwelling and boarding rooms that will be lost by the proposed development.

public consultation draft

R is the replacement cost calculated as the average value of the first quartile of sales of strata properties in the local government area in which the development is to take place, as specified in the 4 most recent editions of the *Rent and Sales Report*.

- (3) For development involving a boarding house, which the consent authority has assessed as not being financially viable—
- (a) if the rental yield is 3% or less—no contribution can be sought, and
 - (b) if the rental yield is more than 3% and less than 6%—the contribution payable must be reduced by being calculated in accordance with the following formula—

$$C = \frac{X \times (100RY - 3)}{3}$$

where—

C is the contribution payable.

X is the contribution that would be payable under subsection (3).

RY is the rental yield.

- (4) In this section—
- rental yield** means the rental yield for a period, expressed as a percentage, determined by the consent authority in accordance with the following formula and taking into account the guidelines—

$$RY = \frac{Y - (E + D)}{V + U}$$

where—

RY is the rental yield.

Y is the gross rental income from the boarding house for the period.

E is the total expenses for the boarding house, excluding expenses that have been charged to residents, for the period.

D is the capital depreciation of the boarding house for the period.

V is the total value of the boarding house were it to be purchased for the purposes of continuing its use as a boarding house.

U is the estimated cost of carrying out work referred to in section 43(2)(f).

Chapter 3 Diverse housing

Part 1 Secondary dwellings

45 Definition

In this Part—

development for the purposes of a secondary dwelling includes the following—

- (a) the erection of, or alterations or additions to—
 - (i) a secondary dwelling, or
 - (ii) ancillary development within the meaning of Schedule 2,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

residential zone means the following land use zones or an equivalent land use zone—

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,
- (d) Zone R4 High Density Residential,
- (e) Zone R5 Large Lot Residential.

46 Application of Part

This Part applies to development for the purposes of a secondary dwelling on land in a residential zone if development for the purposes of a dwelling house is permissible on the land under another environmental planning instrument.

47 Development may be carried out with consent

- (1) Development to which this Part applies may be carried out with consent.
- (2) Development consent must not be granted under this Part unless—
 - (a) no dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land, and
 - (b) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument, and
 - (c) the total floor area of the secondary dwelling is—
 - (i) no more than 60m², or
 - (ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the greater floor area.

48 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 development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.
- (2) The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies—
 - (a) for a detached secondary dwelling—a minimum site area of 450m²,

- (b) no additional parking provided on the site.

49 Complying development

- (1) This section applies to development for the purposes of a secondary dwelling that—
 - (a) is on land in a residential zone other than Zone R5 Large Lot Residential, and
 - (b) does not involve the erection of, or alterations or additions to, a basement, and
 - (c) does not involve the erection of, or alterations or additions to, a roof terrace on the topmost roof of a building.
- (2) If the development relates to a secondary dwelling that is attached to or separate from the principal dwelling, the development is complying development if the development—
 - (a) meets the general requirements for complying development set out in the Codes SEPP, sections 1.17A and 1.18(1) and (2), and
 - (b) is not on land referred to in the Codes SEPP, section 1.19(1), and
 - (c) is on a lot with an area of at least 450m², and
 - (d) meets the development standards set out in Schedule 2.
- (3) If the development relates to a secondary dwelling that is located within the principal dwelling, the development is complying development if the development—
 - (a) meets the relevant provisions of the *Building Code of Australia*, and
 - (b) is not on land that is an environmentally sensitive area within the meaning of the Codes SEPP, and
 - (c) is not on land that comprises, or on which there is, a heritage item or a draft heritage item within the meaning of the Codes SEPP, and
 - (d) involves no external alterations to the principal dwelling other than the provision of an additional entrance, and
 - (e) will not result in a dwelling on the land, other than the principal dwelling and the secondary dwelling, and
 - (f) will not result in the floor area of the secondary dwelling being—
 - (i) more than 60m², or
 - (ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—more than the greater floor area.

50 Complying development—development for secondary dwellings and principal dwellings at same time

- (1) Development for the purposes of a secondary dwelling and the erection of, or alterations or additions to, a principal dwelling may be carried out as a single complying development if—
 - (a) the development for the secondary dwelling will be carried out at the same time as the development for the principal dwelling, and
 - (b) the erection of the secondary dwelling is complying development under section 49, and
 - (c) the development for the principal dwelling is complying development under the Codes SEPP.
- (2) In determining whether the development for the principal dwelling is complying development, the principal dwelling is taken to be a building containing only 1 dwelling, whether or not the secondary dwelling is located within or attached to it.

51 Conditions of complying development

- (1) A complying development certificate for development that is complying development under this Part is subject to the conditions specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, Schedule 6.
- (2) For the purposes of subsection (1), a reference in the Schedule, sections 6 and 11(1) to a dwelling house is taken to be a reference to a principal dwelling or a secondary dwelling.

52 No subdivision

Development consent must not be granted for the subdivision of a lot on which development has been carried out under this Part.

53 Development standards for bush fire prone land

- (1) This section does not apply to the following development—
 - (a) development for the purposes of—
 - (i) landscaping, or
 - (ii) a non-combustible fence, or
 - (iii) a swimming pool, or
 - (iv) another ancillary structure if it is non-habitable and more than 6m from a dwelling,
 - (b) development carried out on land in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ).

Note— More information about the categories of bush fire attack, including the flame zone, can be found in *Planning for Bush Fire Protection*, Table A1.7.
- (2) Development under this Part must not be carried out on a lot that contains bush fire prone land unless—
 - (a) the development conforms to the relevant specifications and requirements of *Planning for Bush Fire Protection*, and
 - (b) any associated access way is on land that is not grasslands or in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), and
 - (c) the lot has direct access to a public road or a road vested in or maintained by the council, and
 - (d) the building or structure to which the development relates is within 200m of the road, and
 - (e) there is sufficient access designed in accordance with the acceptable solutions identified in *Planning for Bush Fire Protection*, Table 7.4a, and
 - (f) the lot has a water supply that is—
 - (i) reticulated, or
 - (ii) not reticulated but suitable for fire fighting, and
 - (g) reticulated or bottled gas on the lot is installed and maintained in accordance with AS/NZS 1596:2014, *The storage and handling of LP Gas* and the requirements of relevant authorities, including the use of metal piping, and
 - (h) fixed gas cylinders on the lot are located at least 10m from flammable materials and are enclosed on the hazard side of the installation, and
 - (i) gas cylinders on the lot that are within 10m of a dwelling house—
 - (i) have the release valves directed away from the dwelling house, and
 - (ii) have metal connections to and from the cylinders, and

- (j) there are no polymer sheathed flexible gas supply lines to gas meters adjacent to a dwelling on the lot.

Note— The requirements relating to the construction of buildings in bush fire prone areas set out in the *Building Code of Australia* also apply.

- (3) A water supply to a lot that is not reticulated is suitable for fire fighting if—
 - (a) the water supply has a 65mm metal Storz outlet with a gate or ball valve, and
 - (b) the gate or ball valve, pipes and tank penetrations are metal and designed to allow for a full 50mm inner diameter water flow through the Storz fitting, and
 - (c) the size of the non-reticulated water supply is—
 - (i) for a lot with an area up to 10,000m²—10,000L, and
 - (ii) for a lot with an area of more than 10,000m²—20,000L, and
- (4) Land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ) if—
 - (a) the council or a person recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment determines, in accordance with the methodology specified in *Planning for Bush Fire Protection*, the land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), or
 - (b) for development carried out on grasslands—the development conforms to the relevant specifications and requirements of *Planning for Bush Fire Protection*, Table 7.9a.

- (5) In this section—

bush fire attack level-40 (BAL-40) has the same meaning as in AS 3959:2018, *Construction of buildings in bushfire-prone areas*.

flame zone (BAL-FZ) has the same meaning as in AS 3959:2018, *Construction of buildings in bushfire-prone areas*.

grasslands has the same meaning as in *Planning for Bush Fire Protection*.

Planning for Bush Fire Protection means the document titled *Planning for Bush Fire Protection* (ISBN 978 0 646 99126 9) prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019.

54 Development standards for flood control lots

- (1) Development under this Part must not be carried out on the following parts of a flood control lot, as certified by the council or a professional engineer who specialises in hydraulic engineering—
 - (a) a flood storage area,
 - (b) a floodway area,
 - (c) a flow path,
 - (d) a high hazard area,
 - (e) a high risk area.
- (2) Development under this Part that is carried out on a flood control lot must comply with the following development standards—
 - (a) if there is a minimum floor level adopted in a development control plan by the relevant council for the lot, the development must not cause a habitable room in the dwelling house to have a floor level lower than the minimum floor level,
 - (b) if a part of the principal dwelling or secondary dwelling or an ancillary structure is erected at or below the flood planning level, it must be constructed of flood compatible material,

- (c) the principal dwelling or secondary dwelling and ancillary structures, if any, must be able to withstand the forces exerted during a flood by water, debris and buoyancy up to—
 - (i) the flood planning level, or
 - (ii) if an on-site refuge is provided on the lot, the probable maximum flood level,
 - (d) the development must not result in increased flooding elsewhere in the floodplain,
 - (e) the lot must have pedestrian and vehicular access to a readily accessible refuge at a level equal to or higher than the lowest habitable floor level of the dwelling house,
 - (f) vehicular access to the dwelling house must not be inundated by water to a level of more than 0.3m during a 1:100 ARI flood event,
 - (g) the lot must not have any open car parking spaces or carports lower than the level of a 1:20 ARI flood event.
- (3) The requirements under subsection (2)(c) and (d) are satisfied if a joint report by a professional engineer specialising in hydraulic engineering and a professional engineer specialising in civil engineering states that the requirements are satisfied.
- (4) Words used in this section have the same meaning as in the *Floodplain Development Manual*.
- (5) In this section—

ARI means average recurrent interval.

flood compatible material means building materials and surface finishes capable of withstanding prolonged immersion in water.

flood control lot means a lot to which flood related development controls apply in respect of development for the purposes of secondary dwellings.

flood planning level means—

- (a) the flood planning level adopted by a local environmental plan applying to the lot, or
- (b) if a flood planning level is not adopted by a local environmental plan applying to the lot, the flood planning level adopted in a development control plan by the relevant council for the lot.

Floodplain Development Manual means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

flow path means a flow path identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

high hazard area means a high hazard area identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

high risk area means a high risk area identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

55 Development standards for land near Siding Spring Observatory

- (1) This section applies to development under this Part that is carried out on land in the local government area of Coonamble, Gilgandra or Warrumbungle Shire or the part of the local government area of Dubbo Regional that was formerly in the City of Dubbo.

- (2) Development to which this section applies must not be carried out unless the development will not result in—
 - (a) for land in the local government areas of Coonamble, Gilgandra or Warrumbungle Shire or the part of the local government area of Dubbo Regional that was formerly in the City of Dubbo—a secondary dwelling with an outside light fitting other than a shielded light fitting, or
 - (b) for land in the local government areas of Coonamble, Gilgandra or Warrumbungle Shire—a secondary dwelling with more than 7 shielded outside light fittings or more than 5 shielded outside light fittings that are not automatic light fittings.
- (3) Words used in this section have the same meanings as in the Standard Instrument, clause 5.14.

Part 2 Group homes

56 Definitions

In this Part—

prescribed zone means the following—

- (a) the following land use zones or an equivalent land use zone—
 - (i) Zone R1 General Residential,
 - (ii) Zone R2 Low Density Residential,
 - (iii) Zone R3 Medium Density Residential,
 - (iv) Zone R4 High Density Residential,
 - (v) Zone B4 Mixed Use,
 - (vi) Zone SP1 Special Activities,
 - (vii) Zone SP2 Infrastructure,
- (b) another zone in which development for the purposes of a dwelling house or multi dwelling housing may be carried out with or without consent under an environmental planning instrument.

57 Development in prescribed zones

- (1) Development for the purposes of a permanent group home or a transitional group home on land in a prescribed zone may be carried out—
 - (a) without consent if the development—
 - (i) does not result in more than 10 bedrooms being within 1 or more group homes on a site, and
 - (ii) is carried out by or on behalf of a public authority, or
 - (b) otherwise—with consent.
- (2) *State Environmental Planning Policy (Infrastructure) 2007*, Part 2, Division 1 applies to development carried out by or on behalf of a public authority under subsection (1) and, in the application of the Division, a reference in the Division to the Policy is taken to be a reference to this section.

58 Exempt development existing group homes

- (1) Development for a purpose specified in *State Environmental Planning Policy (Infrastructure) 2007*, Schedule 1, that is carried out within the boundaries of an existing group home, by or on behalf of a public authority, is exempt development if it—

- (a) meets the development standards for the development specified in the Schedule, as modified by subsection (2), and
 - (b) complies with the requirements of the Policy, section 20(2).
- (2) The development standards for a carport associated with an existing building are modified as follows—
- (a) the maximum surface area for a carport is 30m²,
 - (b) the maximum height for a carport is 3m above ground level (existing),
 - (c) a carport may be located up to 1m forward of a front building setback.

59 Complying development

- (1) Development for the purposes of a group home is complying development if the development—
- (a) does not result in more than 10 bedrooms being within 1 or more group homes on a site, and
 - (b) satisfies the requirements for complying development specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, sections 1.18 and 1.19, other than sections 1.18(1)(h) and 1.19(1)(b), and
 - (c) is not in a draft heritage conservation area, and
 - (d) meets the development standards set out in Schedule 3.

Note— Development specified as complying development under this section may not be undertaken as complying development if the development is on bush fire prone land—see the *Rural Fires Act 1997*, section 100B.

- (2) A complying development certificate is taken to satisfy a requirement of an environmental planning instrument or tree preservation order for a consent, permit or approval to remove a tree, or other vegetation, under 4m in height if the complying development cannot be carried out without the removal of the tree or other vegetation.
- (3) A complying development certificate for development that is complying development under this section is subject to the conditions specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, Schedule 6, and accordingly a reference in the Schedule, sections 6 and 11 to a dwelling house is taken to be a reference to a group home.

60 Determination of development applications

- (1) A consent authority must not—
- (a) refuse consent to development for the purposes of a group home unless the consent authority has made an assessment of the community need for the group home, or
 - (b) impose a condition on a consent granted for a group home only because the development is for the purposes of a group home.
- (2) This section applies to development for the purposes of a group home that is permissible with consent under this or another environmental planning instrument.

61 Development standards for flood control lots

- (1) Development under this Part must not be carried out on the following parts of a flood control lot, as certified by the council or a professional engineer who specialises in hydraulic engineering—
- (a) a flood storage area,

- (b) a floodway area,
 - (c) a flow path,
 - (d) a high hazard area,
 - (e) a high risk area.
- (2) Development under this Part that is carried out on a part of a flood control lot must comply with the following development standards—
- (a) if there is a minimum floor level adopted in a development control plan by the relevant council for the lot, the development must not cause a habitable room in the group home to have a floor level lower than the minimum floor level,
 - (b) if a part of the group home or an ancillary structure is erected at or below the flood planning level, it must be constructed of flood compatible material,
 - (c) the group home and ancillary structures, if any, must be able to withstand the forces exerted during a flood by water, debris and buoyancy up to—
 - (i) the flood planning level, or
 - (ii) if an on-site refuge is provided on the lot—the probable maximum flood level,
 - (d) the development must not result in increased flooding elsewhere in the floodplain,
 - (e) the lot must have pedestrian and vehicular access to a readily accessible refuge at a level equal to or higher than the lowest habitable floor level of the group home,
 - (f) vehicular access to the group home must not be inundated by water to a level of more than 0.3m during a 1:100 ARI (average recurrent interval) flood event,
 - (g) the lot must not have any open car parking spaces or carports lower than the level of a 1:20 ARI (average recurrent interval) flood event.
- (3) The requirements under subsection (2)(c) and (d) are satisfied if a joint report by a professional engineer specialising in hydraulic engineering and a professional engineer specialising in civil engineering states that the requirements are satisfied.
- (4) Words used in this section have the same meaning as in the *Floodplain Development Manual*.
- (5) In this section—
- flood compatible material*** means building materials and surface finishes capable of withstanding prolonged immersion in water.
- flood control lot*** means a lot to which flood related development controls apply in respect of development for the purposes of secondary dwellings or group homes.
- flood planning level*** means—
- (a) the flood planning level adopted by a local environmental plan applying to the lot, or
 - (b) if a flood planning level is not adopted by a local environmental plan applying to the lot, the flood planning level adopted in a development control plan by the relevant council for the lot.
- Floodplain Development Manual*** means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.
- flow path*** means a flow path identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

high hazard area means a high hazard area identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

high risk area means a high risk area identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

62 Development standards for land near Siding Spring Observatory

- (1) This section applies to development under this Part that is carried out on land in the local government area of Coonamble, Gilgandra or Warrumbungle Shire or the part of the local government area of Dubbo Regional that was formerly in the City of Dubbo.
- (2) Development to which this section applies must not be carried out unless the development will not result in—
 - (a) for land in the local government areas of Coonamble, Gilgandra or Warrumbungle Shire or the part of the local government area of Dubbo Regional that was formerly in the City of Dubbo—a group home with an outside light fitting other than a shielded light fitting, or
 - (b) for land in the local government areas of Coonamble, Gilgandra or Warrumbungle Shire—a group home with more than 7 shielded outside light fittings or more than 5 shielded outside light fittings that are not automatic light fittings.
- (3) Words used in this section have the same meanings as in the Standard Instrument, clause 5.14.

Part 3 Co-living housing

63 Co-living housing may be carried out on certain land with consent

Development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument, other than Zone R2 Low Density Residential.

64 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 development for the purposes of co-living housing that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.
- (2) The following are non-discretionary development standards in relation to the carrying out of the development under this Part—
 - (a) for development on non-heritage land in a zone in which residential flat buildings are permitted—a floor space ratio not exceeding—
 - (i) the maximum permissible floor space ratio for residential accommodation on the land, and
 - (ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,
 - (b) at least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area,
 - (c) for co-living housing containing 6 private rooms—
 - (i) a total of at least 30m² of communal living area, and

- (ii) minimum dimensions of 3m for each communal living area,
 - (d) for co-living housing containing more than 6 private rooms—
 - (i) a total of at least 30m² of communal living area plus at least a further 2m² for each private room in excess of 6 private rooms, and
 - (ii) minimum dimensions of 3m for each communal living area,
 - (e) communal open spaces—
 - (i) with a total area of at least 20% of the site area, and
 - (ii) each with minimum dimensions of 3m,
 - (f) for development carried out within the Greater Sydney region—the lesser of—
 - (i) the maximum number of parking spaces permitted under a relevant planning instrument, or
 - (ii) 0.5 parking space for each private room,
 - (g) if paragraph (f) does not apply—at least 1 parking space for each private room,
 - (h) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,
 - (i) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument,
 - (j) at least 1 bicycle parking space for each private room,
 - (k) at least 1 motorcycle parking space for every 5 private rooms.
- (3) Subsection (2)(a) is repealed on 1 August 2024.

65 Standards for co-living housing

- (1) A consent authority must not consent to development to which this Part applies unless it is satisfied that—
- (a) each private room has a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of at least—
 - (i) for a private room intended to be used by a single occupant—12m², or
 - (ii) otherwise—16m², and
 - (b) the minimum lot size for the development is not less than—
 - (i) for development on land in Zone R2 Low Density Residential—the lesser of the minimum lot size requirements for manor houses under a relevant planning instrument, or 600m²,
 - (ii) for development on land in Zone R3 Medium Density Residential—the minimum lot size requirements for multi dwelling housing under a relevant planning instrument,
 - (iii) for development on other land—the minimum lot size requirements for residential flat buildings under a relevant planning instrument, and
 - (c) the front, side and rear setbacks for the development are not less than—
 - (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument,
 - (ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument, and

- (d) if the co-living housing exceeds 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and
- (e) the design of the building will be compatible with the character of the local area, and
- (f) for development on land in Zone R2 Low Density Residential or an equivalent land use zone, the co-living housing—
 - (i) will not contain more than 12 private rooms, and
 - (ii) will be in an accessible area, and
- (g) the co-living housing will contain an appropriate workspace for the manager, either within the communal living room area or in a separate space, and
- (h) for co-living housing on land zoned primarily for commercial purposes—no part of the ground floor of the co-living housing that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and
 - (i) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and
 - (j) each private room will be used by no more than 2 occupants.
- (2) Subsection (1)(h) does not apply to a part of a building that—
 - (a) faces a service lane that does not require active street frontages, or
 - (b) is used for any of the following purposes—
 - (i) a lobby for a residential, serviced apartment, hotel or tenanted component of the building,
 - (ii) access for fire services,
 - (iii) vehicular access.
- (3) Subsection (1) does not apply to development for the purposes of minor alterations or additions to existing co-living housing.

66 No subdivision

Development consent must not be granted for the subdivision of co-living housing into separate lots.

Part 4 Seniors housing

Division 1 Land to which Part applies

67 Land to which Part applies

This Part applies to land in the following zones—

- (a) Zone RU5 Village,
- (b) Zone R1 General Residential,
- (c) Zone R2 Low Density Residential,
- (d) Zone R3 Medium Density Residential,
- (e) Zone R4 High Density Residential,
- (f) Zone B1 Neighbourhood Centre,
- (g) Zone B2 Local Centre,
- (h) Zone B3 Commercial Core,

- (i) Zone B4 Mixed Use,
- (j) Zone B5 Business Development,
- (k) Zone B6 Enterprise Corridor,
- (l) Zone B7 Business Park,
- (m) Zone B8 Metropolitan Centre,
- (n) Zone SP1 Special Purposes,
- (o) Zone SP2 Infrastructure—Hospital,
- (p) Zone RE2 Private Recreation.

68 Land to which Part does not apply—general

- (1) This Part does not apply to the following land—
 - (a) land to which *Warringah Local Environmental Plan 2000* applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North) under the Plan,
 - (b) land described in Schedule 4.
- (2) Nothing in Schedule 4 operates to preclude the application of this Part to land only because—
 - (a) the land is identified under *State Environmental Planning Policy (Coastal Management) 2018*, or
 - (b) in relation to land used for the purposes of an existing registered club—the land is described in another environmental planning instrument as—
 - (i) private open space, or
 - (ii) open space where dwellings or dwelling houses are permitted.

69 Land to which Part does not apply—heritage conservation areas in Greater Sydney region

- (1) This Part does not apply to land in the Greater Sydney region if an environmental planning instrument identifies the land as being within a heritage conservation area unless—
 - (a) a development application relating to the land was lodged before 28 February 2019, or
 - (b) a development application relating to the land was lodged on or after 28 February 2019, but the development application relies on a site compatibility certificate and the application for the certificate was lodged before that date.
- (2) A site compatibility certificate may be issued for land in the exclusion zone after 28 February 2019 if the application for the certificate was lodged before that date.
- (3) This section does not apply to the following land—
 - (a) land in the North Sydney local government area,
 - (b) Lot 1, DP 9786, 46 Hannah Street, Beecroft,
 - (c) Lot Z, DP 100832, 48 Hannah Street, Beecroft,
 - (d) Lot 2, DP 517374, 50 Hannah Street, Beecroft,
 - (e) Lot 4, DP 35528, 17 Killaloe Avenue, Pennant Hills.
- (4) This section is repealed at the end of 1 July 2022.

70 Land to which Part does not apply—metropolitan rural areas in Greater Sydney region

- (1) This Part does not apply to land identified on the metropolitan rural areas exclusion zone map as a metropolitan rural area exclusion zone (*exclusion zone*) unless— the land is in the following zones—
 - (a) the land is in a residential or business zone, and
 - (b) a development application relating to the land was lodged—
 - (i) before 29 July 2020, or
 - (ii) on or after 29 July 2020 if the development application relies on a site compatibility certificate and the application for the certificate was lodged before that date.
- (2) A site compatibility certificate may be issued for land in the exclusion zone after 29 July 2020 if the application for the certificate was lodged before that date.
- (3) In this section—

metropolitan rural areas exclusion zone map means the map—

 - (a) marked “State Environmental Planning Policy—Housing for Seniors or People with a Disability, Metropolitan Rural Areas Exclusion Zone Map”, and
 - (b) approved by the Minister on the making of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment (Metropolitan Rural Areas Exemption) 2020*, and
 - (c) made available on the NSW Planning Portal.

71 Seniors housing permitted with consent

Development for the purposes of seniors housing may be carried out with development consent—

- (a) on land to which this Part applies, or
- (b) on land on which development for the purposes of seniors housing is permitted under another environmental planning instrument.

Division 2 Preliminary

72 Definitions

In this Part—

gross floor area means the sum of the areas of each floor of a building, where the area of each floor is taken to be the area within the inner face of the external enclosing walls, as measured at a height of 1.4m above each floor level—

- (a) excluding columns, fin walls, sun control devices and elements, projections or works outside the general lines of the inner face of the external wall, and
- (b) excluding cooling towers, machinery and plant rooms, ancillary storage space and vertical air conditioning ducts, and
- (c) excluding car parking needed to meet the requirements of this Part or the council of the local government area concerned and internal access to the parking, and
- (d) excluding space for the loading and unloading of goods, and
- (e) for in-fill self-care housing—including car parking provided at ground level, other than for visitors, in excess of 1 per dwelling, and
- (f) for a residential care facility—excluding floor space used for service activities provided by the facility below ground level.

hostel means residential accommodation for seniors or people with a disability where—

- (a) meals, laundering, cleaning and other facilities are provided on a shared basis, and
- (b) at least 1 staff member is available on site 24 hours a day to provide management services.

in-fill self-care housing means seniors housing consisting of at least 2 independent living units and at which none of the following services are provided on the site—

- (a) meals,
- (b) cleaning services,
- (c) personal care,
- (d) nursing care.

seniors means the following people—

- (a) people who are at least 60 years of age,
- (b) people who are resident at a facility at which residential care, within the meaning of the *Aged Care Act 1997* of the Commonwealth, is provided,
- (c) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

serviced self-care housing means seniors housing comprising independent living units where the following services are available on the site—

- (a) meals,
- (b) cleaning services,
- (c) personal care,
- (d) nursing care.

73 Amendments to the bush fire evacuation risk map

- (1) The Planning Secretary may prepare maps for the purposes of amending or replacing the bush fire evacuation risk map.
- (2) In preparing a map, the Planning Secretary must consider the following matters—
 - (a) the size of the existing population within the locality,
 - (b) age groups within the population and the number of persons within the age groups,
 - (c) the number of hospitals and other facilities, including the number of beds, providing care to the residents of the facilities within the locality,
 - (d) the number of schools within the locality and the number of students at the schools,
 - (e) existing development within the locality that has been carried out under this Part,
 - (f) recommendations, if any, made by the NSW Rural Fire Service.

Division 3 Development standards

74 Development standards—general

- (1) This section applies to development for the purposes of seniors housing involving—
 - (a) the erection of a building, or
 - (b) alterations or additions to an existing building.

- (2) Development consent must not be granted for the development unless—
 - (a) the site area of the development is at least 1,000m²,
 - (b) the frontage of the site area of the development is at least 20m measured at the building line,
 - (c) for development on land in a residential zone where residential flat buildings are not permitted the development will not result in a building—
 - (i) with a height of more than 9m, or
 - (ii) exceeding 2 storeys if the building is adjacent to the boundary of the site area.
- (3) The development may result in a building with a height of no more than 11.5m if servicing equipment on the roof of the building—
 - (a) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and
 - (b) is limited to an area of no more than 20% of the surface area of the roof.
- (4) Subsection (1)(a) and (b) do not apply to development the subject of a development application made by the following—
 - (a) the Land and Housing Corporation,
 - (b) another social housing provider.

75 Development standards for hostels and independent living units

- (1) Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the standards specified in Schedule 5 for the development.
- (2) An independent living unit, or part of an independent living unit, located above the ground floor in a multi-storey building need not comply with the requirements in Schedule 5, sections 2, 7–13 and 15–20 if the development application is made by, or by a person jointly with, a social housing provider.

Note— Development standards concerning accessibility and usability for residential care facilities are not specified in this Policy. For relevant standards, see the Commonwealth aged care accreditation standards and the *Building Code of Australia*.

76 Development standards for seniors housing—Zones RE2, SP1, RU5 and R2

- (1) Development consent must not be granted for development for the purposes of seniors housing unless the consent authority is satisfied as follows—
 - (a) for development on land in Zone RE2 Private Recreation—
 - (i) the development is carried out on land used for the purposes of an existing registered club, and
 - (ii) at least 50% of the site adjoins a residential zone,
 - (b) for development on land in Zone SP1 Special Purpose—
 - (i) development for the purposes of a place of public worship, an educational establishment, a hospital or seniors housing is permitted on the land, and
 - (ii) at least 50% of the site adjoins a residential zone,
 - (c) for development on land in Zone RU5 Village—
 - (i) the development is carried out on land within 50km of a 24-hour health services facility, and
 - (ii) the land is serviced by reticulated water and sewerage,

- (d) for development on land in Zone R2 Low Density Residential—the development is carried out only for the purposes of a residential care facility.

77 Restrictions on occupation of seniors housing

- (1) Development permitted under this Part may be carried out for the accommodation of only the following—
 - (a) seniors or people who have a disability,
 - (b) people who live in the same household with seniors or people who have a disability,
 - (c) staff employed to assist in the administration and provision of services to housing provided under this Part.
- (2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in subsection (1) will occupy accommodation to which the development relates.

78 Use of ground floor of seniors housing in commercial zones

- (1) This section applies to a building used for the purposes of seniors housing on land zoned primarily for commercial purposes.
- (2) Development consent must not be granted for development involving the building unless the part of the ground floor of the building that fronts a street will not be used for residential purposes.
- (3) Subsection (2) does not apply to a part of a building that—
 - (a) faces a service lane that does not require active street frontages, or
 - (b) is used for any of the following purposes—
 - (i) a lobby for a residential, serviced apartment, hotel or tenanted component of the building,
 - (ii) access for fire services,
 - (iii) vehicular access.
- (4) Subsection (2) does not apply if another environmental planning instrument permits the use of the ground floor of the building for residential purposes.

79 Subdivision

- (1) Land on which development has been carried out under this Part may be subdivided with the consent of the consent authority.
- (2) Subsection (1) does not apply to land in Zone B3 Commercial Core.

80 Fire sprinkler systems in residential care facilities

- (1) A consent authority must not grant consent for development for the purposes of a residential care facility unless the facility will include a fire sprinkler system.
- (2) Development for the purposes of the installation of a fire sprinkler system in a residential care facility may be carried out with development consent.

81 Development on land used for the purposes of an existing registered club

- (1) Development consent must not be granted for development under this Part on land used for the purposes of an existing registered club unless the consent authority is satisfied that—
 - (a) the development includes appropriate measures to separate the club from the residential areas of the development to avoid land use conflicts, and

- (b) an appropriate protocol will manage the relationship between the development and the gambling facilities on the site of the club to minimise harm associated with the misuse and abuse of gambling activities by residents of the seniors housing.
Note— The *Gaming Machines Act 2001* provides for gambling harm minimisation measures.
- (2) For the purposes of subsection (1)(a), appropriate measures include the following—
 - (a) separate pedestrian access points for the club and the residential areas of the seniors housing,
 - (b) design principles underlying the building aimed at ensuring acceptable noise levels in bedrooms and living areas in the residential areas of the seniors housing.

Division 4 Site-related requirements

Note— Information and assessment guidelines may be issued by the Department of Planning, Industry and Environment from time to time to provide assistance to councils in assessing locations and the provision of services.

82 Location and access to facilities and services—*independent living units*

- (1) Development consent must not be granted for development for the purposes of an independent living unit unless the consent authority has considered whether residents will have adequate access to facilities and services—
 - (a) directly, or
 - (b) by a transport service that complies with subsection (2), or
 - (c) on-site.
- (2) The transport service must—
 - (a) take the residents to a place that has adequate access to facilities and services, and
 - (b) for development on land within the Greater Sydney region—
 - (i) not be a passenger service, and
 - (ii) be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day, and
 - (c) for development on land that is not within the Greater Sydney region—be available both to and from the site during daylight hours at least once each weekday.
- (3) For the purposes of subsections (1) and (2), access is adequate if—
 - (a) the facilities and services are, or the transport service is, located at a distance of not more than 400m from the site, and
 - (b) the distance is accessible by means of a suitable access pathway, and
 - (c) the gradient along the pathway complies with subsection (4)(c).
- (4) In subsection (3)—
 - (a) a ***suitable access pathway*** is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and
 - (b) the distance is to be measured by reference to the length of the pathway, and
 - (c) the overall average gradient must be no more than 1:14 and the gradients along the pathway must be no more than—
 - (i) 1:12 for a maximum of 15m at a time, or

- (ii) 1:10 for a maximum length of 5m at a time, or
- (iii) 1:8 for a maximum length of 1.5m at a time.

(5) In this section—

facilities and services means—

- (a) shops and other retail and commercial services that residents may reasonably require, and
- (b) community services and recreation facilities, and
- (c) the practice of a general medical practitioner.

passenger service has the same meaning as in the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.

Note— A passenger service is defined as the transport, by a motor vehicle other than a bus, of passengers within, or partly within, this State for a fare.

83 Location and access to facilities and services—residential care facilities

- (1) Development consent must not be granted for development for the purposes of a residential care facility unless the consent authority is satisfied that residents of the facility will have access to facilities and services—
 - (a) directly, or
 - (b) by a transport service other than a passenger service.

(2) In this section—

facilities and services has the same meaning as in section 82.

passenger service has the same meaning as in the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.

Note— A passenger service is defined as the transport, by a motor vehicle other than a bus, of passengers within, or partly within, this State for a fare.

84 Bush fire prone land

- (1) A consent authority must not consent to development under this Part on bush fire prone land unless the consent authority is satisfied that the development complies with the requirements of Planning for Bushfire Protection.
- (2) In determining a development application for development under this Part on land in the vicinity of bush fire prone land, a consent authority must consider the location of the development, the means of access to and egress from the location and other relevant matters, including the following—
 - (a) the size of the existing population within the locality,
 - (b) age groups within the population and the number of persons within the age groups,
 - (c) the number of hospitals and other facilities providing care to the residents of the facilities within the locality, and the number of beds within the hospitals and facilities,
 - (d) the number of schools within the locality and the number of students at the schools,
 - (e) existing development within the locality that has been carried out under this Policy or *State Environmental Planning Policy No 5—Housing for Older People or People with a Disability*,
 - (f) the road network within the locality and the capacity of the road network to cater for traffic to and from existing development if there were a need to evacuate persons from the locality in the event of a bush fire,

- (g) the adequacy of access to and from the site of the development for emergency response vehicles,
 - (h) the nature, extent and adequacy of bush fire emergency procedures that are able to be applied to the development and its site,
 - (i) the requirements of Fire and Rescue NSW.
- (3) In exercising its functions under this section, a consent authority must consult with the NSW Rural Fire Service and consider its comments.
- (4) In this section—
- bush fire prone land*** means land identified on a bush fire prone land map, certified under the Act, section 10.3, as the following—
- (a) “Bush fire prone land—vegetation category 1”,
 - (b) “Bush fire prone land—vegetation category 2”,
 - (c) “Bush fire prone land—vegetation category 3”,
 - (d) “Bush fire prone land—vegetation buffer”.
- Planning for Bushfire Protection*** means the document titled *Planning for Bush Fire Protection* (ISBN 978 0 646 99126 9) prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019.

Division 5 Design requirements

85 Design of in-fill self-care housing

In determining a development application for development for the purposes of in-fill self-care housing, a consent authority must consider the *Seniors Living Policy: Urban Design Guideline for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004.

86 Design of seniors housing

A consent authority must not consent to development under this Part unless the consent authority is satisfied that the development demonstrates adequate regard has been given to the principles set out in Division 6.

Division 6 Design principles

87 Neighbourhood amenity and streetscape

Development for the purposes of seniors housing should—

- (a) recognise that the operational, functional and economic requirements of residential care facilities typically require a different building shape from other residential accommodation, and
- (b) 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) complement heritage conservation areas and heritage items in the area, and
- (d) 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, and
- (e) be designed so the front building on the site is set back generally in line with the existing building line, and
- (f) includes plants reasonably similar to other plants in the street, and
- (g) retain, wherever reasonable, significant trees, and
- (h) be designed so no building is constructed in a riparian zone.

88 Visual and acoustic privacy

Development for the purposes of seniors housing should consider the visual and acoustic privacy of adjacent neighbours and residents by—

- (a) appropriate site planning, 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.

89 Solar access and design for climate

Development for the purposes of seniors housing should—

- (a) for development involving the erection of a new building—be designed—
 - (i) to provide residents of the building with adequate daylight, and
 - (ii) 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.

90 Stormwater

Development for the purposes of seniors housing should—

- (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.

91 Crime prevention

Development for the purposes of seniors housing should be designed in accordance with environmental design principles relating to crime prevention, provide personal property security for residents and visitors and encourage crime prevention by—

- (a) 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
- (b) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and

- (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.

92 Accessibility

Development for the purposes of seniors housing should—

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

93 Waste management

Development for the purposes of seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.

Division 7 Non-discretionary development standards

94 Interrelationship of Division with design principles in Division 5

Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the development does not demonstrate that adequate regard has been given to the principles set out in Division 6.

95 Division does not apply to certain development applications relating to heritage-affected land

This Division does not apply to development on land to which an interim heritage order or listing on the State Heritage Register under the *Heritage Act 1977* applies.

96 Non-discretionary development standards for hostels and residential care facilities—the Act, s 4.15

- (1) The object of this section is to identify development standards for particular matters relating to development for the purposes of hostels and residential care facilities that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.
- (2) The following are non-discretionary development standards in relation to development for the purposes of a hostel or a residential care facility—
 - (a) no building exceeds a height of 9.5m, excluding servicing equipment on the roof of a building,
 - (b) servicing equipment on the roof of a building, which results in the building exceeding a height of 9.5m—
 - (i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and
 - (ii) is limited to an area of no more than 20% of the surface area of the roof, and
 - (iii) does not result in the building exceeding a height of 11.5m,
 - (c) the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,
 - (d) internal and external communal open spaces with a total area of at least—
 - (i) for a hostel—8m² for every bed, or
 - (ii) for a residential care facility—10m² for every bed,
 - (e) at least 15m² of landscaped area for every bed,

public consultation draft

- (f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 6m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site,
- (g) for a hostel—at least 1 parking space for every 10 beds in the hostel,
- (h) for a residential care facility—at least 1 parking space for every 15 beds in the facility,
- (i) at least 1 parking space for every 2 employees who are on duty at the same time,
- (j) at least 1 parking space for the purpose of ambulance parking.

97 Non-discretionary development standards for independent living units—the Act, s 4.15

- (1) The object of this section is to identify development standards for particular matters relating to development for the purposes of independent living units that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.
- (2) The following are non-discretionary development standards in relation to development for the purposes of an independent living unit—
 - (a) no building exceeds a height of 9m, excluding servicing equipment on the roof of a building,
 - (b) servicing equipment on the roof of a building, which results in the building exceeding a height of 9m—
 - (i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and
 - (ii) is limited to an area of no more than 20% of the surface area of the roof, and
 - (iii) does not result in the building exceeding a height of 10.5m,
 - (c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,
 - (d) for a development application made by a social housing provider—at least 35m² of landscaped area per dwelling,
 - (e) if paragraph (d) does not apply—at least 30% of the site area is landscaped,
 - (f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 6m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site,
 - (g) at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces,
 - (h) for a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building—
 - (i) at least 15m² of private open space per dwelling, and
 - (ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor,

Note— The open space needs to be accessible only by a continuous accessible path of travel, within the meaning of AS 1428.1, if the dwelling itself is an accessible one—see Schedule 5, section 2.

 - (i) for a dwelling in a multi-storey building not located on the ground floor—a balcony accessible from a living area with minimum dimensions of 2m and—
 - (i) an area of at least 10m², or
 - (ii) for a 1 bedroom dwelling—an area of at least 6m²,

- (j) for a development application made by, or made by a person jointly with, a social housing provider—at least 1 parking space for every 5 dwellings,
- (k) if paragraph (j) does not apply—at least 0.5 parking space for each bedroom.

Division 8 Development for vertical villages

98 Development to which Division applies

This Division applies to development for the purposes of a vertical village on land to which this Part applies if development for the purposes of a residential flat building is permitted under another environmental planning instrument.

99 Development for vertical villages permitted with consent

- (1) Development consent must not be granted for development to which this Division applies unless the site area of the development is at least 2,000m².
- (2) Development consent may be granted for development to which this Division applies if the development will result in a building with—
 - (a) the maximum permissible floor space ratio plus—
 - (i) for development involving independent living units—an additional 15% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units, or
 - (ii) for development involving a residential care facility—an additional 20% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the residential care facility, or
 - (iii) for development involving independent living units and residential care facilities—an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units or a residential care facility, or both, and
 - (b) a building height exceeding the maximum permissible building height by no more than 3.8m.
- (3) Development consent must not be granted under this Division for development on land to which an interim heritage order or listing on the State Heritage Register under the *Heritage Act 1977* applies.
- (4) In this section—

maximum permissible floor space ratio means—

 - (a) the maximum floor space ratio permitted for the land under a relevant planning instrument, or
 - (b) if a maximum floor space ratio is not specified under a relevant planning instrument—0.5:1.

100 Non-discretionary development standards for vertical villages—the Act, s 4.15

- (1) The object of this section is to identify development standards for particular matters relating to development for the purposes of a vertical village that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.
- (2) The following are non-discretionary development standards in relation to development for the purposes of vertical villages—
 - (a) for a vertical village comprising hostels or residential care facilities—the standards specified in section 96(2)(a) and (b),

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Chapter 3 Diverse housing

- (b) for a vertical village comprising independent living units—the standards specified in section 97(2)(a) and (b).

Schedule 1 Affordable housing principles

section 14

- 1 An affordable housing condition is authorised to be imposed, the condition should be imposed so that mixed and balanced communities are created.
- 2 Affordable housing is to be created and managed so that a socially diverse residential population representative of all income groups is developed and maintained in a locality.
- 3 Affordable housing is to be made available to very low, low or moderate income households, or a combination of the households.
- 4 Affordable housing is to be rented to appropriately qualified tenants and at an appropriate rate of gross household income.
- 5 Land provided for affordable housing is to be used for the purposes of the provision of affordable housing.
- 6 Buildings provided for affordable housing are to be managed so as to maintain their continued use for affordable housing.
- 7 Rental income from affordable housing, after deduction of normal landlord's expenses, including management and maintenance costs and all rates and taxes payable in connection with the dwellings, is generally to be used for the purposes of improving or replacing affordable housing or for the provision of additional affordable housing.
- 8 Affordable housing is to consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings in the area.

Schedule 2 Complying development—secondary dwellings

section 49(2)(d)

Part 1 Preliminary

1 Definitions

- (1) In this Schedule—
- ancillary structure** means the following, if associated with a secondary dwelling and not exempt development under the Codes SEPP—
- (a) an access ramp,
 - (b) an awning, blind or canopy,
 - (c) a balcony, deck, patio, pergola, terrace or verandah attached to a principal or secondary dwelling,
 - (d) a carport attached to a principal or secondary dwelling,
 - (e) a driveway, pathway or paving,
 - (f) a fence or screen,
 - (g) a garage attached to a principal or secondary dwelling,
 - (h) an outbuilding,
 - (i) a rainwater tank attached to a principal or secondary dwelling,
 - (j) a retaining wall,
 - (k) a swimming pool or spa pool and child-resistant barrier.
- outbuilding** means the following, if detached from a principal or secondary dwelling—
- (a) a balcony, deck, patio, pergola, terrace or verandah,
 - (b) a cabana, cubby house, fernery, shed, gazebo or greenhouse,
 - (c) a carport or garage,
 - (d) a rainwater tank (above ground),
 - (e) a shade structure.
- (2) Unless defined in this Schedule, words used in this Schedule have the same meaning as in—
- (a) the Codes SEPP, and
 - (b) for words not defined in the Codes SEPP—the standard instrument.
- (3) In this Schedule, the area of the access laneway for a battle-axe lot is excluded in calculating the area of the lot.

Part 2 Site requirements

2 Lot requirements

- (1) Development for the purposes of a secondary dwelling or ancillary development may only be carried out on a lot that—
- (a) at the completion of the development will have only 1 principal dwelling and 1 secondary dwelling, and
 - (b) for a lot other than a battle-axe lot—has a boundary with a primary road, measured at the building line, of at least the following—

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Schedule 2 Complying development—secondary dwellings

- (i) if the lot has an area of at least 450m^2 but not more than 900m^2 —12m,
 - (ii) if the lot has an area of more than 900m^2 but not more than 1500m^2 —15m,
 - (iii) if the lot has an area of more than 1500m^2 —18m, and
 - (c) for a battle-axe lot—has an access laneway of at least 3m in width and measuring at least 12m by 12m, excluding the access laneway.
- (2) A lot on which a new secondary dwelling is erected must have lawful access to a public road.
- (3) Nothing in this Schedule requires the provision of additional parking spaces for development for the purposes of a secondary dwelling.

3 Maximum site coverage of all development

- (1) The site coverage of the principal dwelling, secondary dwelling and all ancillary development on a lot must be no more than the following—
- (a) if the lot has an area of at least 450m^2 but not more than 900m^2 —50% of the area of the lot,
 - (b) if the lot has an area of more than 900m^2 but not more than 1500m^2 —40% of the area of the lot,
 - (c) if the lot has an area of more than 1500m^2 —30% of the area of the lot.
- (2) For the purposes of calculating the site coverage, the area of the following is not included—
- (a) an access ramp,
 - (b) the part of an awning, blind or canopy outside the outer wall of a building,
 - (c) a balcony, deck, patio, pergola, terrace or verandah attached to the principal or secondary dwelling and not enclosed by a wall higher than 1.4m above the floor level,
 - (d) an eave,
 - (e) a driveway,
 - (f) a farm building,
 - (g) a fence or screen,
 - (h) a pathway or paving,
 - (i) a rainwater tank attached to the principal or secondary dwelling,
 - (j) a swimming pool or spa pool.

4 Maximum floor area for principal and secondary dwellings

- (1) The floor area of a secondary dwelling, excluding an attached ancillary structure, must not exceed—
- (a) 60m^2 , or
 - (b) if a larger floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the larger floor area.
- (2) The floor area of a principal dwelling must not exceed the following—
- (a) if the lot has an area of at least 450m^2 but not more than 600m^2 — 330m^2 ,
 - (b) if the lot has an area of more than 600m^2 but not more than 900m^2 — 380m^2 ,
 - (c) if the lot has an area of more than 900m^2 — 430m^2 .
- (3) In subsection (2)—

attached ancillary structure means a carport, garage, balcony, deck, patio, pergola, terrace or verandah—

- (a) attached to the principal dwelling or secondary dwelling, and
- (b) enclosed by a wall higher than 1.4m above the floor level, other than the external wall of the dwelling.

floor area means the sum of the areas within the outer face of the external walls of each storey of a dwelling, including an attached ancillary structure, measured at a height of 1.4m above each floor level, excluding—

- (a) part of an awning, blind or canopy outside the outer wall of the dwelling,
- (b) an eave,
- (c) a lift shaft,
- (d) a stairway,
- (e) a void above a lower storey.

5 Setbacks and maximum floor area for balconies, decks, patios, terraces and verandahs

- (1) The total floor area of all balconies, decks, patios, terraces and verandahs on a lot must be no more than 12m² if—
 - (a) a part of the structure is within 6m from a side or rear boundary, and
 - (b) the structure has a point of its finished floor level at more than 2m above ground level (existing).
- (2) The balcony, deck, patio, terrace or verandah must not have a point of its finished floor level—
 - (a) if it is located within 3m of a side or rear boundary—more than 2m above ground level (existing), or
 - (b) if it is located more than 3m but not more than 6m from a side or rear boundary—more than 3m above ground level (existing), or
 - (c) if it is located more than 6m from a side or rear boundary—more than 4m above ground level (existing).
- (3) A detached deck, patio or terrace, including alterations or additions to the deck, patio or terrace, must not have a floor level of more than 600mm above ground level (existing).

Note—Development identified in this section may require privacy screens under this Schedule, section 15.

Part 3 Building heights and setbacks

6 Building height

- (1) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or a new part of an existing building having a building height above ground level (existing) of more than 8.5m.
- (2) Development for the purposes of an ancillary structure must not result in a new building or a new part of an existing building having a building height above ground level (existing) of more than—
 - (a) if an outbuilding—4.8m, or
 - (b) if a fence—1.8m.

7 Setbacks from roads, other than classified roads

- (1) Development for the purposes of a secondary dwelling or an ancillary structure on a lot must result in a new building or a new part of an existing building having a setback from a primary road that is not a classified road of at least—
 - (a) the average distance of the setbacks of the 2 nearest dwelling houses on the same side of the primary road and located within 40m of the lot on which the principal dwelling is erected, or
 - (b) if 2 dwelling houses are not located within 40m of the lot on the same side of the primary road—
 - (i) for a lot with an area of at least 450m² but not more than 900m²—4.5m, or
 - (ii) for a lot with an area of more than 900m² but not more than 1,500m²—6.5m, or
 - (iii) for a lot with an area of more than 1,500m²—10m.
- (2) Development for the purposes of a secondary dwelling or an ancillary structure on a lot must result in a new building or a new part of an existing building having a setback from a boundary of the lot with a parallel road that is not a classified road of at least 3m.
- (3) Development for the purposes of a secondary dwelling or an ancillary structure on a corner lot must result in a new building or a new part of an existing building on the lot having a setback from the boundary with a secondary road that is not a classified road of at least—
 - (a) for a lot with an area of at least 450m² but not more than 600m²—2m, or
 - (b) for a lot with an area of more than 600m² but not more than 1,500m²—3m, or
 - (c) for a lot with an area of more than 1,500m²—5m.
- (4) For the purposes of this section, if a lot is a corner lot—
 - (a) a boundary that is at least 6m in length is taken to be a boundary with a primary road, and
 - (b) the other boundaries are taken to be boundaries with a secondary road.
- (5) For the purposes of this section, if a lot has contiguous boundaries with a road or roads but is not a corner lot, the lot is taken to have a boundary only with a primary road.

8 Setbacks from classified roads

Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or a new part of an existing building having a setback from a boundary with a classified road of less than—

- (a) if another environmental planning instrument applying to the lot establishes a setback for a dwelling house having a boundary with a classified road—the setback specified in the environmental planning instrument, or
- (b) otherwise—9m.

9 Setbacks from side boundaries

- (1) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or a new part of an existing building or a new carport, garage, balcony, deck, patio, pergola, terrace or verandah having a setback from a side boundary of less than the following—
 - (a) for a lot with an area of at least 450m² but not more than 900m²—0.9m,

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Schedule 2 Complying development—secondary dwellings

- (b) for a lot with an area of more than 900m² but not more than 1,500m²—1.5m,
 - (c) for a lot with an area of more than 1,500m²—2.5m.
- (2) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or ancillary structure having a setback from a side boundary of less than the sum of—
- (a) the amount of the setback specified for the relevant sized lot in subsection (1), and
 - (b) an amount equal to 25% of the additional building height above 3.8m.
- (3) In this section—
- new building or ancillary structure*** means—
- (a) a new building or a new part of an existing building with a height of more than 3.8m, and
 - (b) a new carport, garage, balcony, deck, patio, pergola, terrace or verandah.

10 Setbacks from rear boundaries

- (1) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building, a new part of an existing building or a new carport, garage, balcony, deck, patio, pergola, terrace or verandah having a setback from a rear boundary of less than the following—
- (a) for a lot with an area of at least 450m² but not more than 900m²—
 - (i) 3m, and
 - (ii) if the development results in a new or existing building exceeding a height of 3.8m—an additional amount, not exceeding 8m, equal to 3 times the height above 3.8m,
 - (b) for a lot with an area of more than 900m² but not more than 1,500m²—
 - (i) 5m, and
 - (ii) if the development results in a new or existing building exceeding a height of 3.8m—an additional amount, not exceeding 12m, equal to 3 times the height above 3.8m,
 - (c) for a lot with an area of more than 1500m²—
 - (i) 10m, and
 - (ii) if the development results in a new or existing building exceeding a height of 3.8m—an additional amount, not exceeding 15m, equal to 3 times the height above 3.8m.
- (2) Despite subsection (1), a dwelling on a lot with a rear boundary with a laneway may have a building line that abuts the boundary for up to 50% of the length of the boundary.

11 Exceptions to setbacks

Despite another section in this Schedule—

- (a) development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building having a setback of less than 3m from a boundary with a public reserve, and
- (b) side and rear setbacks do not apply to the following—
 - (i) an aerial, antenna, awning or eave,
 - (ii) a flue, chimney, pipe or cooling or heating appliance,
 - (iii) a rainwater tank with a height of more than 1.8m,

public consultation draft

- (iv) another structure associated with the provision of a utility service if it is located at least 450mm from the relevant boundary,
- (v) a fence, fascia, gutter, downpipe, light fitting, an electricity or gas meter, a driveway, pathway or paving if it is located within a required setback area to the relevant boundary, and
- (c) the setback from a road does not apply to—
 - (i) a driveway, fence, pathway, paving or retaining wall, or
 - (ii) the articulation zone and a building element permitted within the zone, and
- (d) the setback from a rear boundary required by this Schedule, section 10 does not apply to a lot that has only 3 boundaries, disregarding a boundary of an access lane if the lot is a battle-axe lot.

12 Calculating setbacks

- (1) For the purposes of determining the 2 nearest dwelling houses in this Schedule, section 7, a dwelling house located on a battle-axe lot must be disregarded.
- (2) For the purposes of calculating the setback of the 2 nearest dwelling houses in this Schedule, section 7—
 - (a) an ancillary structure must not be included, and
 - (b) a building element within the articulation zone must not be included.
- (3) For the purposes of calculating the setbacks for a battle-axe lot, the setback on the opposite side of the lot to the rear setback is taken to be a side setback.
- (4) For the purposes of calculating the setbacks for an attached secondary dwelling, the height of the secondary dwelling is the vertical distance from ground level (existing) to the highest point of the secondary dwelling.
- (5) For the purposes of calculating a side or rear setback, the maximum building height of a dwelling on a sloping lot must be used.
- (6) A setback must be calculated at the closest point to the boundary from the building line.

13 Building articulation

- (1) Development for the purposes of a secondary dwelling, other than development on a battle-axe lot, must result in either the principal dwelling or the secondary dwelling having a front door and a window to a habitable room in the building wall that faces a primary road.
- (2) Development for the purposes of a secondary dwelling, other than development on a battle-axe lot, must result in either the principal dwelling or the secondary dwelling having a window to a habitable room in the building wall that faces a parallel road.
- (3) A secondary dwelling, other than a secondary dwelling that has a setback from a primary road of less than 3m, may incorporate an articulation zone that extends from the building line to a distance of 1.5m into the required setback from the primary road.
- (4) Development for the purposes of a secondary dwelling on a corner lot must result in either the principal dwelling or the secondary dwelling having a window in a habitable room—
 - (a) with an area of at least 1m², and
 - (b) that faces and is visible from a secondary road.

14 Building elements within the articulation zone to a primary road

- (1) The following building elements are permitted in an articulation zone in the setback from a primary road—
 - (a) an entry feature or portico,
 - (b) a balcony, deck, patio, pergola, terrace or verandah,
 - (c) a window box treatment,
 - (d) a bay window or similar feature,
 - (e) an awning or other feature over a window,
 - (f) a sun shading feature.
- (2) A building element must not extend above the eave gutter line, other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the building.
- (3) The maximum total area of all building elements within the articulation zone, other than a building element specified in subsection (1)(e) or (f), must be no more than 25% of the area of the articulation zone.

15 Privacy

- (1) A window in a new secondary dwelling, or a new window in an alteration or addition to an existing principal dwelling for the purposes of a new secondary dwelling, must have a privacy screen for a part of the window less than 1.5m above the finished floor level if—
 - (a) the window—
 - (i) is in a habitable room that has a finished floor level of more than 1m above ground level (existing), and
 - (ii) has a sill height less than 1.5m above that floor level, and
 - (iii) faces a side or rear boundary and is less than 3m from that boundary, or
 - (b) the window—
 - (i) is in a habitable room that has a finished floor level of more than 3m above ground level (existing), and
 - (ii) has a sill height less than 1.5m above that floor level, and
 - (iii) faces a side or rear boundary and is at least 3m, but no more than 6m, from that boundary.
- (2) Subsection (1) does not apply to a window located in a bedroom where the window has an area of no more than 2m².
- (3) A new balcony, deck, patio, terrace or verandah for the purposes of a new secondary dwelling and any alteration to an existing balcony, deck, patio, terrace or verandah of a secondary dwelling that has a floor area of more than 3m² must have a privacy screen if the balcony, deck, patio, terrace or verandah is—
 - (a) within 3m of a side or rear boundary and has a floor level of more than 1m above ground level (existing), or
 - (b) between 3m and 6m of a side or rear boundary and has a floor level of more than 2m above ground level (existing).
- (4) A privacy screen required under subsection (3) must be installed—
 - (a) to a height of at least 1.7m, but not more than 2.2m, above the finished floor level of the balcony, deck, patio, terrace or verandah, and
 - (b) at the edge of the part of the development within the areas specified in subsection (3)(a) or (b) and is parallel to or faces towards the relevant side or rear boundary.

Part 4 Landscaping

16 Landscaped area

- (1) A lot on which development for the purposes of a secondary dwelling or an ancillary structure is carried out must have a landscaped area of at least the following—
 - (a) for a lot with an area of at least 450m² but not more than 600m²—20%,
 - (b) for a lot with an area of more than 600m² but not more than 900m²—25%,
 - (c) for a lot with an area of more than 900m² but not more than 1500m²—35%,
 - (d) for a lot with an area of more than 1500m²—45%.
- (2) At least 50% of the landscaped area must be located behind the building line to the primary road boundary.
- (3) The minimum dimensions of the landscaped area must exceed 2.5m.

17 Principal private open space

- (1) A lot on which development for the purposes of a secondary dwelling is carried out must have more than 24m² of principal private open space.
- (2) The principal private open space may be shared by both the principal dwelling and secondary dwelling and may be in the form of a balcony or deck.
- (3) In this section—

principal private open space means an area—

 - (a) directly accessible from, and adjacent to, a habitable room, other than a bedroom, and
 - (b) more than 4m wide, and
 - (c) not steeper than a 1:50 gradient.

Part 5 Earthworks and drainage

18 Earthworks, retaining walls and structural support

- (1) Excavation for the purposes of a secondary dwelling or an ancillary structure must not exceed a maximum depth, measured from ground level (existing), of—
 - (a) if located no more than 1m from any boundary—1m, and
 - (b) if located more than 1m but not more than 1.5m from any boundary—2m, and
 - (c) if located more than 1.5m from any boundary—3m.
- (2) Despite subsection (1), the excavation must not exceed a maximum depth, measured from ground level (existing), of 1m if the land is identified as Class 3 or 4 on an Acid Sulfate Soils Map or is within 40m of a waterbody (natural).
- (3) Fill must not exceed a maximum height, measured from ground level (existing), of—
 - (a) if the fill is for the purposes of a secondary dwelling—1m, and
 - (b) if the fill is for the purposes of an ancillary structure—600mm.
- (4) Despite subsection (3), the height of fill contained wholly within the footprint of a secondary dwelling or an ancillary structure is not limited.
- (5) Fill that is higher than 150mm above ground level (existing) and is not contained wholly within the footprint of a secondary dwelling or an ancillary structure is limited to 50% of the landscaped area of the lot.

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Schedule 2 Complying development—secondary dwellings

- (6) The ground level (finished) of the fill must not be used to measure the height of any secondary dwelling or an ancillary structure under this code.
- (7) Support for earthworks more than 600mm above or below ground level (existing) must take the form of a retaining wall or other structural support that—
 - (a) a professional engineer has certified is structurally sound, including the ability to withstand the forces of lateral soil load, and
 - (b) has been designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and
 - (c) has adequate drainage lines connected to the stormwater drainage system for the site, and
 - (d) does not result in a retaining wall or structural support with a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion that is more than the height of the associated excavation or fill, and
 - (e) is separated from any other retaining wall or structural support on the site by at least 2m, measured horizontally, and
 - (f) has been installed in accordance with any manufacturer's specifications, and
 - (g) if it is an embankment or batter—must have its toe or top more than 1m from any side or rear boundary.

Note— Fill and excavation not associated with a building may be exempt development under the Codes SEPP, sections 2.29 and 2.30.

19 Drainage

- (1) All stormwater collecting as a result of development for the purposes of a secondary dwelling or an ancillary structure must be conveyed by a gravity fed or charged system to—
 - (a) a public drainage system, or
 - (b) an inter-allotment drainage system, or
 - (c) an on-site disposal system.
- (2) All stormwater drainage systems within a lot and the connection to a public or an inter-allotment drainage system must—
 - (a) if an approval is required under the *Local Government Act 1993*, section 68—be approved under the Act, or
 - (b) otherwise—comply with requirements for the disposal of stormwater drainage contained in a development control plan applicable to the land.

20 Setbacks of secondary dwellings and ancillary structures from protected trees

- (1) Development for the purposes of a secondary dwelling, all ancillary structures and associated excavation on a lot, must have a setback from a protected tree on the lot of at least 3m.
- (2) Despite subsection (1), the following ancillary structures are permitted within the setback if the development does not require a cut or fill of more than 0.15m below or above ground level (existing)—
 - (a) an access ramp,
 - (b) a driveway, pathway or paving,
 - (c) an awning, blind or canopy,
 - (d) a fence, screen or child-resistant barrier associated with a swimming pool or spa pool.

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Schedule 2 Complying development—secondary dwellings

(3) In this section—

protected tree means a tree that requires a separate permit or development consent for pruning or removal, but does not include a tree that may be removed without development consent under Chapter 3.

Note— A separate permit or development consent may be required if the branches or roots of a protected tree on the lot or on adjoining land are required to be pruned or removed.

Schedule 3 Complying development—group homes

section 59(1)(d)

1 Definitions

(1) In this Schedule—

ancillary structure means the following that are not exempt development under the Codes SEPP—

- (a) an access ramp,
- (b) an awning, blind or canopy,
- (c) a balcony, deck, patio, pergola, terrace or verandah attached to a group home,
- (d) a carport attached to a group home,
- (e) a driveway, pathway or paving,
- (f) a fence or screen,
- (g) a garage attached to a group home,
- (h) an outbuilding,
- (i) a rainwater tank attached to a group home,
- (j) a retaining wall,
- (k) a swimming pool or spa pool and child-resistant barrier.

outbuilding means any of the following that are detached from a group home—

- (a) a balcony, deck, patio, pergola, terrace or verandah,
- (b) a cabana, cubby house, fernery, shed, gazebo or greenhouse,
- (c) a carport or garage,
- (d) a rainwater tank (above ground),
- (e) a shade structure.

(2) Unless defined in this Schedule, words used in this Schedule have the same meaning as in—

- (a) the Codes SEPP, and
- (b) for words not defined in the Codes SEPP—the standard instrument.

2 Site requirements

Development may only be carried out on a site that—

- (a) has an area of at least 450m², excluding the area of the access laneway if it is a battle-axe lot, and
- (b) has a boundary with, or lawful access to, a public road, and
- (c) if it is not a battle-axe lot, has a boundary with a primary road of at least 12m, and
- (d) if it is a battle-axe lot, has an access laneway of at least 3m in width, and
- (e) has at least one area on the site that measures at least 12m by 12m, excluding the access laneway if it is a battle-axe lot.

3 Site requirements for group homes in certain zones

(1) Development that is the erection of a group home may be carried out on a lot—

- (a) in Zone R5 Large Lot Residential, or

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Schedule 3 Complying development—group homes

- (b) if the lot has an area of at least 4,000m²—in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots or Zone RU6 Transition.
- (2) Despite subsection (1), development that is the erection of 1 or more group homes must not be carried out on a lot if the size of the lot is less than the minimum lot size for the erection of a dwelling house under an environmental planning instrument applying to the lot.

4 Maximum site coverage of all development

- (1) The group home and all ancillary development must not cover more than 70% of the site area.
- (2) For the purposes of calculating the site coverage in subsection (1), the area of the following is not included—
 - (a) an access ramp,
 - (b) part of an awning, blind or canopy outside the outer wall of a building,
 - (c) a balcony, deck, patio, pergola, terrace or verandah attached to the group home and not enclosed by a wall higher than 1.4m above the floor level,
 - (d) an eave,
 - (e) a driveway,
 - (f) a fence or screen,
 - (g) a pathway or paving,
 - (h) a rainwater tank attached to the group home,
 - (i) a swimming pool or spa pool.

5 Building height

Development for the purposes of a group home or an ancillary structure must not result in a new building or a new part of an existing building having a building height of more than 8.5m above ground level (existing).

6 Setbacks from roads other than classified roads

- (1) A group home and all ancillary structures on a site must have a setback from the boundary with a primary road that is not a classified road of at least—
 - (a) the average distance of the setbacks of the 2 nearest group homes or dwelling houses on the same side of the primary road and located within 40m of the site on which the group home is erected, or
 - (b) if 2 group homes or dwelling houses are not located within 40m of the site—4.5m.
- (2) A group home and all ancillary structures on a site must have a setback from the boundary with a secondary road that is not a classified road of at least 2m.
- (3) A group home and all ancillary structures on a site must have a setback from a boundary with a parallel road that is not a classified road of at least—
 - (a) the average distance of the setbacks of the 2 nearest group homes or dwelling houses on the same side of the parallel road and located within 40m of the site on which the group home is erected, or
 - (b) if 2 group homes or dwelling houses are not located within 40m of the site—4.5m.

7 Setbacks from classified roads

A group home and all ancillary structures on a site must have a setback from a boundary with a classified road of at least—

- (a) if another environmental planning instrument applying to the land establishes a setback for a group home or dwelling house having a boundary with a classified road—that distance, or
- (b) otherwise—9m.

8 Building articulation

A group home, other than a group home on a battle-axe lot, must have—

- (a) a front door and a window to a habitable room in a building wall that faces, and is visible from, any primary road, and
- (b) a window to a habitable room in a building wall that faces, and is visible from, any parallel road, and
- (c) a window, with an area of at least 1m², to a habitable room in a building wall that faces, and is visible from, any secondary road.

9 Articulation zones

- (1) If a group home has a setback from a primary road of at least 3m, an articulation zone may extend up to a distance of 1.5m from the building line into the setback.
- (2) The following building elements are permitted in an articulation zone—
 - (a) an entry feature or portico,
 - (b) a balcony, deck, patio, pergola, terrace or verandah,
 - (c) a window box,
 - (d) a bay window or similar feature,
 - (e) an awning or other feature over a window,
 - (f) a sun shading feature.
- (3) A building element must not extend above the eave gutter line, other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the group home.
- (4) The maximum total area of all building elements within the articulation zone, other than a building element listed in subsection (2)(e) or (f), must be no more than 25% of the area of the articulation zone.

10 Side and rear boundary setbacks

- (1) A group home and all ancillary structures on a site must have a setback from the side boundary of at least the following—
 - (a) in relation to a group home with a building height of up to 3.8m—0.9m,
 - (b) in relation to a group home with a building height greater than 3.8m—0.9m plus 25% of the additional building height above 3.8m.
- (2) A group home and all ancillary structures on a site must have a setback from the rear boundary of at least the following—
 - (a) in relation to a group home or an ancillary structure with a building height of up to 3.8m—0.9m,
 - (b) in relation to a group home or an ancillary structure with a building height greater than 3.8m—3m plus an amount that is 3 times the additional building height above 3.8m, up to a maximum setback of 8m.

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Schedule 3 Complying development—group homes

- (3) Despite subsections (1) and (2), a group home on a site that has a rear boundary with a laneway may have a building line that abuts that boundary for up to 50% of the length of that boundary.

11 Calculating setbacks

- (1) For the purposes of determining the nearest 2 dwelling houses in this Schedule, section 5, a dwelling house or group home located on a battle-axe lot must be disregarded.
- (2) For the purposes of calculating the setback of the 2 nearest dwelling houses in this Schedule, section 5—
- (a) an ancillary structure must not be included, and
 - (b) a building element within the articulation zone must not be included.
- (3) For the purposes of calculating setbacks for a battle-axe lot, the setback on the opposite side of the lot to the rear setback is taken to be a side setback.
- (4) For the purposes of calculating a side or rear setback, the maximum building height of a group home on a sloping site must be used.
- (5) A setback must be calculated at the closest point to the boundary from the building line.
- (6) For the purposes of calculating the setback from a road, a reference to an ancillary structure does not include the following—
- (a) a driveway, pathway or paving,
 - (b) an eave,
 - (c) a fence or screen,
 - (d) a retaining wall,
 - (e) an ancillary structure that is a building element permitted in the articulation zone.

12 Exceptions to setbacks

Despite another section in this Schedule—

- (a) a group home or an attached ancillary structure must have a setback of at least 3m from a boundary with a public reserve, and
- (b) side and rear setbacks do not apply to the following—
 - (i) an aerial, antenna, awning, eave,
 - (ii) a flue, chimney, pipe or cooling or heating appliance,
 - (iii) a rainwater tank with a height of more than 1.8m,
 - (iv) another structure associated with the provision of a utility service if it is located at least 450mm from the relevant boundary,
 - (v) a fence, fascia, gutter, downpipe, light fitting, an electricity or gas meter, a driveway, pathway or paving if it is located within a required setback area to the relevant boundary, and
- (c) the setback from a road does not apply to—
 - (i) a driveway, fence, pathway, paving or retaining wall, or
 - (ii) the articulation zone and a building element permitted within the zone, and
- (d) the setback from a rear boundary required by Schedule 2, section 10 of this Policy does not apply to a lot that has only 3 boundaries, disregarding the boundary of an access lane if the lot is a battle-axe lot.

13 Building separation

The distance between buildings that are used for the purposes of group homes on a site must be at least 1.8m.

14 Privacy

- (1) A window in a new group home, or a new window in any alteration or addition to an existing group home, must have a privacy screen for a part of the window less than 1.5m above the finished floor level if—
 - (a) the window—
 - (i) is in a habitable room that has a finished floor level of more than 1m above ground level (existing), and
 - (ii) has a sill height less than 1.5m above that floor level, and
 - (iii) faces a side or rear boundary and is less than 3m from that boundary, or
 - (b) the window—
 - (i) is in a habitable room that has a finished floor level of more than 3m above ground level (existing), and
 - (ii) has a sill height less than 1.5m above that floor level, and
 - (iii) faces a side or rear boundary and is at least 3m, but no more than 6m, from that boundary.
- (2) Subsection (1) does not apply to a window located in a bedroom if the window has an area of no more than 2m².
- (3) A new balcony, deck, patio, terrace or verandah for the purposes of a new group home and any alteration to an existing balcony, deck, patio, terrace or verandah of a group home that has a floor area of more than 3m² must have a privacy screen if the balcony, deck, patio, terrace or verandah is—
 - (a) within 3m of a side or rear boundary and has a floor level of more than 1m above ground level (existing), or
 - (b) between 3m and 6m of a side or rear boundary and has a floor level of more than 2m above ground level (existing).
- (4) Any privacy screen required under subsection (3) must be installed—
 - (a) to a height of at least 1.7m, but not more than 2.2m, above the finished floor level of the balcony, deck, patio, terrace or verandah, and
 - (b) at the edge of the part of the development within the areas specified in subsection (3)(a) or (b) and is parallel to or faces towards the relevant side or rear boundary.

15 Landscaped area

- (1) At least 20% of the site area on which the erection of, or alterations or additions to, a group home or an ancillary structure is carried out must be a landscaped area.
- (2) At least 50% of the landscaped area must be located behind the building line to the primary road boundary.
- (3) The minimum dimensions of the landscaped area must exceed 2.5m.

16 Principal private open space

A site on which a group home is erected must have more than 24m² of principal private open space that—

- (a) has an area at ground level (existing) directly accessible from, and adjacent to, a habitable room, other than a bedroom, and

- (b) is at least 4m wide, and
- (c) has a gradient no steeper than 1:50.

17 Requirement to provide car parking

- (1) At least 2 off-street car parking spaces must be provided on the site on which a group home is erected.
- (2) At least 2 off-street car parking spaces must be retained on a site on which alterations or additions to an existing off-street car parking space are carried out.
- (3) A car parking space under this section may be an open hard stand space or a carport or garage, whether attached or detached from the group home.

18 Garage, carport and parking spaces

- (1) A garage, carport or car parking space must be no more than 1m forward of the front building setback.
- (2) If the door or doors on a garage face a primary road, a secondary road or a parallel road, the total width of all those door openings must—
 - (a) be no more than 6m, and
 - (b) be no more than 50% of the width of the building, measured at the building line to the relevant property boundary.
- (3) An open hard stand car parking space must measure at least 2.6m wide by 5.4m long.

19 Vehicle access

The design and construction of the vehicular access to a site must comply with Australian Standard AS/NZS 2890.6.

20 Earthworks, retaining walls and structural support

- (1) Excavation must be structurally supported in accordance with the requirements specified in subsections (5) and (6) and must not exceed a maximum depth measured from ground level (existing) of—
 - (a) if located within 1m of a boundary—1m, or
 - (b) if located more than 1m, but not more than 1.5m, from a boundary—2m, or
 - (c) if located more than 1.5m from a boundary—3m.
- (2) Despite subsection (1), the excavation must be no more than 1m below ground level (existing) if the land is identified as Class 3 or 4 on an Acid Sulfate Soils Map or is within 40m of a waterbody (natural).
- (3) Fill must—
 - (a) not exceed 1m above ground level (existing), and
 - (b) be contained in accordance with subsections (5) and (6) by—
 - (i) a retaining wall or other form of structural support that does not extend more than 1.5m from an external wall of the dwelling, or
 - (ii) an unprotected sloping embankment or batter, that does not extend from the dwelling house by more than 3m, in which case the toe of the embankment or batter must be more than 1m away from a side or rear boundary.
- (4) The final ground level (finished) of fill placed on a site must not be used for the purposes of measuring the height of development carried out under Chapter 3.

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Schedule 3 Complying development—group homes

- (5) Support for earthworks that are more than 600mm above or below ground level (existing) and within 1m of any boundary, or more than 1m above or below ground level (existing) in any other location, must take the form of a retaining wall or other form of structural support that—
 - (a) has been certified by a professional engineer, and
 - (b) has adequate drainage lines connected to the existing stormwater drainage system for the site, and
 - (c) does not result in any retaining wall or structural support with a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion that is—
 - (i) more than 1m in height and within 1m from a side or rear boundary, or
 - (ii) more than 3m in height in any other location.
- (6) Excavation or fill that exceeds 600mm above or below ground level (existing) requires a retaining wall or structural support that must be—
 - (a) constructed in accordance with subsection (5), and
 - (b) designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and
 - (c) separated from any retaining wall or other structural support on the site by at least 2m, measured horizontally, and
 - (d) installed in accordance with the manufacturer's specification.

Note— Fill and excavation not associated with a building may be exempt development—see *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, sections 2.29 and 2.30.

21 Fill of sloping sites

- (1) Fill associated with the erection of, or alterations or additions to, a group home or an ancillary structure must—
 - (a) be no more than 1m above ground level (existing), and
 - (b) be contained wholly within the external walls of the group home or an ancillary structure.
- (2) Despite subsection (1), exposed fill may be constructed using an unprotected embankment if—
 - (a) the group home or an ancillary structure has a setback of more than 2m from a side or rear boundary, and
 - (b) the fill is no more than 0.6m above ground level (existing), and
 - (c) the fill, but not the embankment, does not extend more than 1 metre beyond an external wall of the group home or detached ancillary structure, and
 - (d) the toe of the unprotected embankment has a setback of at least 0.4m from a side or rear boundary.

22 Drainage

- (1) All stormwater collecting as a result of the erection of, or alterations or additions to, a group home or an ancillary structure must be conveyed by a gravity fed or charged system to—
 - (a) a street drainage system under the control of the relevant public authority, or
 - (b) an inter-allotment drainage system, or
 - (c) if the site is unsewered—an on-site disposal system approved under the *Local Government Act 1993*, section 68.

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Schedule 3 Complying development—group homes

- (2) All surface water run-off emanating from a sloping site as a result of the erection of, or alterations or additions to, a group home or an ancillary structure must be collected and conveyed to a drainage system listed in subsection (1).

23 Swimming pools

- (1) An ancillary structure comprising a swimming pool for a group home must be located—
 - (a) behind the setback from any road boundary, or
 - (b) in the rear yard area.
- (2) The swimming pool water line must have a setback of at least 1 metre from a side or rear boundary.
- (3) Decking around a swimming pool must be no more than 0.6m above ground level (existing).
- (4) Coping around a swimming pool must be no more than—
 - (a) 1.4m above ground level (existing), or
 - (b) 0.3m wide if the coping is more than 0.6m above ground level (existing).
- (5) Water from a swimming pool must be discharged in accordance with an approval under the *Local Government Act 1993* if the site is not connected to a sewer main.
Note— A child-resistant barrier must be constructed or installed in accordance with the requirements of the *Swimming Pools Act 1992*.

24 Fences

- (1) A fence must be constructed so as not to prevent natural flow of stormwater drainage or run-off.
- (2) The height of a boundary fence in a residential zone must not exceed—
 - (a) for development within the boundaries of an existing group home—2.1m above ground level (existing) if the fence is behind the front building line and 1.2m above ground level (existing) if the fence is on or forward of the line, and
 - (b) otherwise—1.8m above ground level (existing) if the fence is behind the front building line and 1.2m above ground level (existing) if the fence is on or forward of the line.
- (3) A fence must not include masonry construction to a height of more than 0.9m above ground level (existing).

25 Access ramps

- (1) The gradient of an access ramp must not be steeper than 1:14.
- (2) An access ramp must be constructed so as to comply with AS 1428.1.
- (3) An access ramp must not create a traffic or pedestrian hazard.

26 Setbacks of group homes and ancillary structures from protected trees

- (1) Development for the purposes of a group home, all ancillary structures and associated excavation on a lot, must have a setback from a protected tree on the lot of at least 3m.
- (2) Despite subsection (1), the following ancillary development is permitted within the setback if the development does not require a cut or fill of more than 0.15m below or above ground level (existing)—
 - (a) an access ramp,

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Schedule 3 Complying development—group homes

- (b) a driveway, pathway or paving,
- (c) an awning, blind or canopy,
- (d) a fence, screen or child-resistant barrier associated with a swimming pool or spa pool.

Note— A separate permit or development consent may be required if the branches or roots of a protected tree on the lot or on an adjoining lot are required to be pruned or removed.

Schedule 4 Environmentally sensitive land

section 68(1)(b)

Land shown cross-hatched on the bush fire evacuation risk map.

Land identified as coastal wetlands and littoral rainforests area within the meaning of *State Environmental Planning Policy (Coastal Management) 2018*.

Land identified as coastal vulnerability area within the meaning of *State Environmental Planning Policy (Coastal Management) 2018*.

Land declared as an area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*, section 3.1.

Land identified on the Map within the meaning of the *Biodiversity Conservation Regulation 2017*, section 7.3.

Land identified in another environmental planning instrument as follows or by a similar description—

- (a) flood planning,
- (b) open space,
- (c) natural wetland.

Schedule 5 Standards concerning accessibility and useability for hostels and independent living units

section 75(1)

Part 1 Standards applying to hostels and independent living units

1 Application of standards in this Part

- (1) The standards set out in this Part apply to seniors housing that consists of hostels or independent living units.
- (2) In this Part—
continuous accessible path of travel has the same meaning as in AS 1428.1.

2 Siting standards

- (1) If the whole of the site has a gradient of less than 1:10, all dwellings must have wheelchair access by a continuous accessible path of travel to an adjoining public road.
- (2) If the whole of the site does not have a gradient of less than 1:10—
 - (a) the percentage of dwellings that must have wheelchair access must equal the greater of—
 - (i) the proportion of the site, expressed as a percentage, that has a gradient of less than 1:10, or
 - (ii) 50%, and
 - (b) the wheelchair access provided must be by a continuous accessible path of travel to an adjoining public road or an internal road or a driveway accessible to all residents.

Example— If 70% of the site has a gradient of less than 1:10, then 70% of the dwellings must have wheelchair access as required by this subsection. If more than 50% of the site has a gradient greater than 1:10, development for the purposes of seniors housing is likely to be unable to meet these requirements.

- (3) Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.

3 Security

Pathway lighting—

- (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and
- (b) must provide at least 20 lux at ground level (existing).

4 Letterboxes

Letterboxes—

- (a) must be situated on a hard standing area and have appropriate wheelchair access by a continuous accessible path of travel, and
- (b) must be lockable, and
- (c) must be located adjacent to the street entry—
 - (i) together in a central location, or

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]

Schedule 5 Standards concerning accessibility and useability for hostels and independent living units

- (ii) for independent living units—together in 1 or more central locations.

5 Private car accommodation

If car parking, not being car parking for employees, is provided as follows—

- (a) at least the following amount of car parking spaces must be designed to enable the width of each space to be increased to 3.8m and to comply with the requirements for parking for persons with a disability set out in AS/NZS 2890.6—
 - (i) 10% of the total number of car parking spaces, or
 - (ii) if there are less than 10 car parking spaces—1 space,
- (b) a garage must have—
 - (i) a power-operated door, or
 - (ii) a power point and an area for motor or control rods to enable a power-operated door to be installed.

6 Accessible entry

Every entry, whether a front entry or not, to a dwelling, not being an entry for employees, must comply with sections 4.3.1 and 4.3.2 of AS 4299.

7 Interior—general

- (1) Internal doorways must have a minimum clear opening that complies with AS 1428.1.
- (2) Internal corridors must have a minimum unobstructed width of 1m.
- (3) Circulation space at approaches to internal doorways must comply with AS 1428.1.

8 Bedroom

At least 1 bedroom within each dwelling must have—

- (a) an area sufficient to accommodate a wardrobe and a bed sized as follows—
 - (i) for a dwelling in a hostel—a single-size bed,
 - (ii) for an independent living unit—a queen-size bed, and
- (b) a clear area for the bed of at least—
 - (i) 1,200mm wide at the foot of the bed, and
 - (ii) 1m wide beside the bed between it and the wall, wardrobe or another obstruction, and
- (c) 2 double general power outlets on the wall where the head of the bed is likely to be, and
- (d) at least 1 general power outlet on the wall opposite the wall where the head of the bed is likely to be, and
- (e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and
- (f) wiring to allow a potential illumination level of at least 300 lux.

9 Bathroom

- (1) At least 1 bathroom within a hostel or independent living unit must be on the ground or main floor and have the following facilities arranged within an area that provides for circulation space for a wheelchair around sanitary facilities in accordance with AS 1428.1—
 - (a) a slip-resistant floor surface,

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]

Schedule 5 Standards concerning accessibility and useability for hostels and independent living units

- (b) a washbasin with plumbing that would facilitate clearances that comply with AS 1428.1,
 - (c) a shower that complies with AS 1428.1, except that the following must be able to be accommodated—
 - (i) a grab rail,
 - (ii) a portable shower head,
 - (iii) a folding seat,
 - (d) a wall cabinet sufficiently illuminated to be able to read the labels of items stored in it,
 - (e) a double general power outlet beside the mirror.
- (2) Subsection (1)(c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility.

10 Toilet

- (1) A dwelling must have at least 1 toilet on the ground or main floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.
- (2) In this section—
visitable toilet has the same meaning as in AS 4299.

11 Surface finishes

Balconies and external paved areas must have slip-resistant surfaces.

Note— Advice regarding finishes may be obtained from AS 1428.1.

12 Door hardware

Door handles and hardware for all doors, including entry doors and other external doors, must be provided in accordance with AS 4299.

13 Ancillary items

Switches and power points must be provided in accordance with AS 4299.

Part 2 Additional standards for independent living units

14 Application of standards in this Part

The standards set out in this Part apply to seniors housing consisting of independent living units in addition to the standards set out in Part 1.

15 Living room and dining room

- (1) A living room must have—
 - (a) a circulation space in accordance with clause 4.7.1 of AS 4299, and
 - (b) a telephone adjacent to a general power outlet.
- (2) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.

16 Kitchen

A kitchen must have—

- (a) a circulation space in accordance with clause 4.5.2 of AS 4299, and
- (b) a circulation space at door approaches that complies with AS 1428.1, and

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]

Schedule 5 Standards concerning accessibility and useability for hostels and independent living units

- (c) the following fittings in accordance with the relevant subclauses of clause 4.5 of AS 4299—
 - (i) benches that include at least 1 work surface at least 800mm in length that comply with clause 4.5.5(a),
 - (ii) tap sets—see clause 4.5.6,
 - (iii) cooktops—see clause 4.5.7, except that an isolating switch must be included,
 - (iv) ovens—see clause 4.5.8, and
- (d) “D” pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and
- (e) general power outlets—
 - (i) at least 1 of which is a double general power outlet within 300mm of the front of a work surface, and
 - (ii) 1 of which is provided for a refrigerator in a position that is easily accessible after the refrigerator is installed.

17 Access to kitchen, main bedroom, bathroom and toilet

In a multi-storey independent living unit, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.

18 Lifts in multi-storey buildings

In a multi-storey building containing separate independent living units on different storeys, lift access must be provided to dwellings above ground level (existing) by way of a lift complying with clause E3.6 of the *Building Code of Australia*.

19 Laundry

A laundry must have—

- (a) a circulation space at door approaches that complies with AS 1428.1, and
- (b) provision for the installation of an automatic washing machine and a clothes dryer, and
- (c) a clear space in front of appliances of at least 1,300mm, and
- (d) a slip-resistant floor surface, and
- (e) an accessible path of travel to any clothes line provided in relation to the dwelling.

20 Storage for linen

Linen storage must be provided in accordance with clause 4.11.5 of AS 4299.

21 Garbage

A garbage storage area must be provided in an accessible location.

Schedule 6 Provisions consequent on commencement of State Environmental Planning Policy (Housing) 2021

1 Definitions

In this Schedule—

repealed instrument means an instrument repealed under section 10.

repeal day means the day on which section 10 commenced.

2 General savings provision

The former provisions of a repealed instrument continue to apply to the following—

- (a) a development application made, but not yet determined, on or before the repeal day,
- (b) a development consent granted on or before the repeal day.

3 Continued application of site compability certificates

The former provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (the *repealed SEPP*) continue to apply to a development application made after the repeal day if—

- (a) the development application relies on a site compatibility certificate, within the meaning of the repealed SEPP, and
- (b) the application for the certificate was made on or before the repeal day.

Schedule 7 Amendment of other environmental planning instruments

7.1 State Environmental Planning Policy (State and Regional Development) 2011

Schedule 1 State significant development—general

Insert at the end of the Schedule with appropriate section numbering—

Residential care facilities

Development for the purposes of residential care facilities if—

- (a) the development has a capital investment value of—
 - (i) for development on land in the Greater Sydney region—\$30 million, or
 - (ii) otherwise—\$20 million, and
- (b) the residential care facility component of the proposed development has a value of at least 60% of the capital investment value of the proposed development.

7.2 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Appendices 10, 11, 12 and 13

Omit “Boarding houses;” from the Land Use Table, Zone R2 Low Density Residential, item 3 wherever occurring.

Schedule 8 Amendment of local environmental plans

8.1 Albury Local Environmental Plan 2010

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 100 square metres,
 - (ii) 30% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.2 Bathurst Regional Local Environmental Plan 2014

[1] Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

[2] Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 20% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 250 metres.

8.3 Bega Valley Local Environmental Plan 2013

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.4 Bellingen Local Environmental Plan 2010

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 100 square metres,
 - (ii) 50% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.5 Blue Mountains Local Environmental Plan 2013

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 25% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.6 Boorowa Local Environmental Plan 2012

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 33% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.7 Byron Local Environmental Plan 2014

[1] Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

[2] Clause 4.2D Erection of dual occupancies (detached) and secondary dwellings in Zones RU1 and RU2

Omit “any” from clause 4.2D(2)(c).

Insert instead “for dual occupancies (detached)—”.

[3] Clause 5.5

Insert after clause 5.4—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) [Not adopted]
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 100 metres.

8.8 Camden Local Environmental Plan 2010

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 25% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.9 Cessnock Local Environmental Plan 2011

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 50% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 20 metres.

8.10 Clarence Valley Local Environmental Plan 2011

[1] Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

[2] Clause 4.2D Erection of dual occupancies (detached) and secondary dwellings in Zones RU1, RU2 and R5

Omit “any” from clause 4.2D(2)(c).

Insert instead “for dual occupancies (detached)—”.

[3] Clause 5.5

Insert after clause 5.4—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 18% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 100 metres.

8.11 Coffs Harbour Local Environmental Plan 2013

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.12 Coolamon Local Environmental Plan 2011

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 33% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 50 metres.

8.13 Cooma-Monaro Local Environmental Plan 2013

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.14 Dubbo Local Environmental Plan 2011

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 65% of the total floor area of the principal dwelling, and

- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 100 metres.

8.15 Eurobodalla Local Environmental Plan 2012

[1] Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

[2] Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 45% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.16 Fairfield Local Environmental Plan 2011

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 10% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 10 metres.

8.17 Forbes Local Environmental Plan 2011

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 40% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.18 Gloucester Local Environmental Plan 2011

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 100 square metres,
 - (ii) 50% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.19 Gosford Local Environmental Plan 2014

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 30% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.20 Goulburn Mulwaree Local Environmental Plan 2009

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.21 Greater Taree Local Environmental Plan 2010

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 100 square metres,
 - (ii) 50% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.22 Great Lakes Local Environmental Plan 2014

[1] Clause 4.2B Erection of dual occupancies and secondary dwellings in Zone RU2

Omit “any” from clause 4.2B(2)(c).

Insert instead “for dual occupancies (detached)—”.

[2] Clause 5.5

Insert after clause 5.4—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 100 square metres,
 - (ii) 50% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.23 Gunnedah Local Environmental Plan 2013

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) [Not adopted]
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 150 metres.

8.24 Harden Local Environmental Plan 2011

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 33% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.25 Hornsby Local Environmental Plan 2013

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 120 square metres,
 - (ii) 33% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.26 Junee Local Environmental Plan 2012

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 20% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 100 metres.

8.27 Kempsey Local Environmental Plan 2011

[1] Clause 4.2E Erection of dual occupancies (detached) and secondary dwellings on land in certain rural and residential zones

Omit “any” from clause 4.2E(3)(c).

Insert instead “for secondary dwellings on land in Zone R5 Large Lot Residential and dual occupancies (detached) on land to which this clause applies—”.

[2] Clause 5.5

Insert after clause 5.4—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 30% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 100 metres.

8.28 Kiama Local Environmental Plan 2013

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 120 square metres,
 - (ii) 0% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 60 metres.

8.29 Lake Macquarie Local Environmental Plan 2014

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.30 Liverpool Local Environmental Plan 2008

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 25% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.31 Murrumbidgee Local Environmental Plan 2013

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 120 square metres,
 - (ii) 50% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 150 metres.

8.32 Muswellbrook Local Environmental Plan 2009

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) [Not adopted]
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 250 metres.

8.33 Narrabri Local Environmental Plan 2012

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 40% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 200 metres.

8.34 Narromine Local Environmental Plan 2011

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 100 square metres,
 - (ii) 70% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 400 metres.

8.35 Orange Local Environmental Plan 2011

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 0 square metres,
 - (ii) 50% of the total floor area of the principal dwelling, and

- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 60 metres.

8.36 Palerang Local Environmental Plan 2014

[1] Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

[2] Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 33% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.37 Penrith Local Environmental Plan 2010

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 10% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.38 Pittwater Local Environmental Plan 2019

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 25% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.39 Port Stephens Local Environmental Plan 2013

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.40 Richmond Valley Local Environmental Plan 2012

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 25% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 100m.

8.41 Queanbeyan Local Environmental Plan 2012

[1] Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

[2] Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 33% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.42 Queanbeyan Local Environmental Plan (South Jerrabomberra) 2012

[1] Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

[2] Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 33% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.43 Queanbeyan Local Environmental Plan (West Jerrabomberra) 2013

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 33% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.44 Randwick Local Environmental Plan 2012

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.45 Shoalhaven Local Environmental Plan 2014

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.46 Snowy River Local Environmental Plan 2013

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.47 Sydney Local Environmental Plan 2012

[1] Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

[2] Clause 6.48 225–279 Broadway, Glebe—floor space

Insert “or co-living housing” after “boarding houses” in clause 6.48(3)(b).

8.48 Tamworth Regional Local Environmental Plan 2010

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 130 square metres,
 - (ii) 25% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 100 metres.

8.49 The Hills Local Environmental Plan 2019

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 100 square metres,
 - (ii) 20% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.50 Tweed City Centre Local Environmental Plan 2012

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.51 Tweed Local Environmental Plan 2014

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.52 Upper Hunter Local Environmental Plan 2013

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 50% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 100 metres.

8.53 Waverley Local Environmental Plan 2012

Land Use Table

Insert “Boarding houses;” in alphabetical order in Zone R2 Low Density Residential, item 3.

8.54 Wollongong Local Environmental Plan 2009

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 67% of the total floor area of the principal dwelling, and
- (b) the distance between the secondary dwelling and the principal dwelling must not exceed 50 metres.

8.55 Wyong Local Environmental Plan 2013

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 30% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

8.56 Young Local Environmental Plan 2010

Clause 5.5

Omit clause 5.5. Insert instead—

5.5 Controls relating to secondary dwellings on land in a rural zone

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—
 - (i) 60 square metres,
 - (ii) 33% of the total floor area of the principal dwelling, and
- (b) [Not adopted]

Dictionary

ABS means the Australian Bureau of Statistics.

accessible area means land within—

- (a) 800m walking distance of a public entrance to—
 - (i) a railway station, or
 - (ii) a wharf from which a Sydney Ferries ferry service operates, or
- (b) 400m walking distance of—
 - (i) a public entrance to a light rail station, or
 - (ii) for a light rail station with no entrance—a platform of the light rail station, or
- (c) 400m walking distance of a bus stop used by a regular bus service, within the meaning of the *Passenger Transport Act 1990*, that has at least 1 bus per hour servicing the bus stop between—
 - (i) 6am and 9pm each day from Monday to Friday, both days inclusive, and
 - (ii) 8am and 6pm on each Saturday and Sunday.

AS 1428.1 means the version of the Australian Standard entitled AS 1428.1:2021, *Design for access and mobility, Part 1: General requirements for access—New building work*, published by Standards Australia, adopted in the *Building Code of Australia*.

AS/NZS 2890.6 means the version of the Australian Standard entitled AS/NZS 2890.6—2009, *Parking facilities, Part 6: Off street parking for people with disabilities*, published by Standards Australia, adopted in the *Building Code of Australia*.

AS 4299 means the Australian Standard entitled AS 4299—1995, *Adaptable housing*, published by Standards Australia, as in force on the date of commencement of *State Environmental Planning Policy (Seniors Living) 2004 (Amendment No 2)*.

battle-axe lot means a lot that has access to a road by an access laneway.

boarding room means a room or suite of rooms within a boarding house occupied or so constructed or adapted as to be capable of being occupied by 1 or more residents.

bush fire evacuation risk map means the map marked “State Environmental Planning Policy No 5—Housing for Older People or People with a Disability (Amendment No 6) Bush Fire Evacuation Risk Map” deposited within the Department of Planning, Industry and Environment.

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

deep soil zone means a landscaped area with no buildings or structures above or below the ground.

development for the purposes of a secondary dwelling—see section 45.

equivalent land use zone—see section 5.

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.

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

Greater Sydney region means—

- (a) the Greater Sydney region within the meaning of the *Greater Sydney Commission Act 2015*, and
- (b) the Central Coast local government area.

habitable room has the same meaning as in the *Building Code of Australia*.

Note— The term is defined as a room used for normal domestic activities, other than a bathroom, laundry, toilet, pantry, walk in wardrobe, hallway, lobby, clothes drying room or other space of a specialised nature not occupied frequently or for extended periods.

heritage conservation area means the following identified in another environmental planning instrument—

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Dictionary

- (a) a heritage conservation area,
- (b) an archaeological site,
- (c) an Aboriginal place of heritage significance.

heritage item means a heritage item identified in another environmental planning instrument.

hostel—see section 72.

in-fill self-care housing—see section 72.

Land and Housing Corporation means the New South Wales Land and Housing Corporation constituted by the *Housing Act 2001*.

landscaped area means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.

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

manor house has the same meaning as in the Codes SEPP.

maximum permissible building height means the maximum building height permitted on the land under an environmental planning instrument, other than this Policy, or a development control plan.

maximum permissible floor space ratio means the maximum floor space ratio permitted on the land under an environmental planning instrument, other than this Policy, or a development control plan.

multi dwelling housing (terraces) has the same meaning as in the Codes SEPP.

non-heritage land means land—

- (a) not containing a heritage item, and
- (b) not the subject of an interim heritage order under the *Heritage Act 1977*, and
- (c) not listed on the State Heritage Register.

registered community housing provider has the same meaning as in the *Community Housing Providers (Adoption of National Law) Act 2012*, section 13.

relevant planning instrument means an environmental planning instrument or a development control plan, if any, that applies to the land on which the development concerned will be carried out.

serviced self-care housing—see section 72.

site area or **site** means the area of land on which development is or will be carried out and may include the whole or part of 1 lot, or more than 1 lot if the lots are contiguous to each other, but does not include land on which development is not permitted to be carried out under this Policy.

social housing provider means the following—

- (a) Services Australia,
- (b) the Land and Housing Corporation,
- (c) a registered community housing provider,
- (d) a specialist supported accommodation provider,
- (e) the Aboriginal Housing Office,
- (f) a registered Aboriginal housing organisation within the meaning of the *Aboriginal Housing Act 1998*,
- (g) a local government authority that provides affordable housing,
- (h) a not-for-profit organisation that is a direct provider of rental housing to tenants.

standard instrument means the standard instrument set out at the end of the *Standard Instrument (Local Environmental Plans) Order 2006*.

State Heritage Register means the State Heritage Register under the *Heritage Act 1977*.

public consultation draft

State Environmental Planning Policy (Housing) 2021 [NSW]
Dictionary

the Act means the *Environmental Planning and Assessment Act 1979*.

walking distance means the shortest distance between 2 points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings.

wheelchair access, in relation to 2 points, means a continuous path of travel between the points that can be negotiated by a person using a wheelchair.