



New South Wales

# **State Environmental Planning Policy (Affordable Rental Housing) Amendment (Short-term Rental Accommodation) 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*.

ROB STOKES, MP  
Minister for Planning and Public Spaces

## **State Environmental Planning Policy (Affordable Rental Housing) Amendment (Short-term Rental Accommodation) 2021**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (Affordable Rental Housing) Amendment (Short-term Rental Accommodation) 2021*.

### **2 Commencement**

This Policy commences on 30 July 2021 and is required to be published on the NSW legislation website.

### **3 Repeal of Policy**

This Policy is repealed on the day following the day on which this Policy commences.

## Schedule 1 Amendment of State Environmental Planning Policy (Affordable Rental Housing) 2009

### [1] Clause 9A

Insert after clause 9—

#### 9A 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 that 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 a named map is a reference to the relevant part or aspect of the single map.
- (4) Maps adopted by this Policy are to 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.

**Note.** The maps adopted by this Policy are to be made available on the official NSW legislation website in connection with this Policy.

### [2] Part 3A

Insert after Part 3—

## Part 3A Short-term rental accommodation

### Division 1 Preliminary

#### 51A Aims of Part

The aims of this Part are as follows—

- (a) 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,
- (b) to provide for the safety of users of short-term rental accommodation who may be less familiar with the dwelling,
- (c) to clarify the types of housing that may be used for the purposes of short-term rental accommodation.

#### 51B Definitions

- (1) In this Part—

**host** means the owner, tenant or permanent resident of a dwelling who uses the dwelling to provide short-term rental accommodation.

**hosted short-term rental accommodation** means short-term rental accommodation provided where the host resides on the premises during the provision of the accommodation.

***non-hosted short-term rental accommodation*** means short-term rental accommodation provided where the host does not reside on the premises during the provision of the accommodation.

***permanent resident*** of a dwelling means a person who permanently resides at the dwelling.

***short-term rental accommodation*** means a dwelling used by the host to provide accommodation in the dwelling on a commercial basis for a temporary or short-term period.

***tenant*** has the same meaning as in the *Residential Tenancies Act 2010*.

- (2) A word or expression used in this Part has the same meaning as in the standard instrument unless it is otherwise defined in this Part.

## **Division 2 Exempt development**

### **51C Exempt development—hosted short-term rental accommodation**

Development for the purpose of hosted short-term rental accommodation is exempt development for the purposes of this Policy if the development meets the general requirements for short-term rental accommodation specified in clause 51E.

### **51D Exempt development—non-hosted short-term rental accommodation**

- (1) Development for the purpose of non-hosted short-term rental accommodation is exempt development for the purposes of this Policy if—
- (a) the development meets the general requirements for short-term rental accommodation specified in clause 51E, and
  - (b) for a dwelling located in a prescribed area—the dwelling is not used for non-hosted short-term rental accommodation for more than 180 days in any 365 day period.
- (2) In calculating the number of days a dwelling is used for non-hosted short-term rental accommodation for the purposes of subclause (1)(b), any period of 21 consecutive days or more for which non-hosted short-term rental accommodation is provided to the same person or persons is not to be counted.
- (3) In this clause—

***Clarence Valley Short-term Rental Accommodation Area Map*** means the State Environmental Planning Policy (Affordable Rental Housing) 2009 Clarence Valley Short-term Rental Accommodation Area Map.

***Greater Sydney region*** does not include the region comprising the Central Coast Local Government Area.

***Muswellbrook Short-term Rental Accommodation Area Map*** means the State Environmental Planning Policy (Affordable Rental Housing) 2009 Muswellbrook Short-term Rental Accommodation Area Map.

***prescribed area*** means the following—

- (a) the Greater Sydney Region,
- (b) Ballina local government area,
- (c) Bega Valley local government area,
- (d) Byron local government area,
- (e) Dubbo Regional local government area,
- (f) City of Newcastle local government area,

- (g) land in the Clarence Valley local government area shown edged heavy black on the Clarence Valley Short-term Rental Accommodation Area Map,
- (h) land in the Muswellbrook local government area shown edged heavy black on the Muswellbrook Short-term Rental Accommodation Area Map.

#### 51E General requirements

The general requirements for short-term rental accommodation are—

- (a) the dwelling must have been lawfully constructed to be used for the purpose of residential accommodation, and
- (b) the dwelling must comprise, or be part of, residential accommodation other than the following—
  - (i) a boarding house,
  - (ii) a group home,
  - (iii) a hostel,
  - (iv) a rural workers' dwelling,
  - (v) seniors housing, and
- (c) the type of residential accommodation that the dwelling comprises, or is part of, must be permitted with or without development consent on the land on which the dwelling is located, and
- (d) the dwelling must be registered on the register established under clause 186X of the *Environmental Planning and Assessment Regulation 2000*, and
- (e) the dwelling must not be, or be part of, refuge or crisis accommodation provided by—
  - (i) a public or local authority, including the Department of Communities and Justice, the New South Wales Land and Housing Corporation or the Aboriginal Housing Office, or
  - (ii) any other body funded wholly or partly by the Commonwealth or the State, and
- (f) if the dwelling is classified under the *Building Code of Australia* as class 1b or class 2–9—
  - (i) the dwelling must have a current fire safety certificate or fire safety statement, or
  - (ii) no fire safety measures are currently implemented, required or proposed for the dwelling, and

**Note.** Part 9 of the *Environmental Planning and Assessment Regulation 2000* includes fire safety requirements for certain existing buildings or parts of buildings.

- (g) the use of the dwelling for the purposes of short-term rental accommodation must otherwise be lawful, and

**Note.** In addition to the requirements set out in this Part, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example—

- (a) section 137A of the *Strata Schemes Management Act 2015* provides that a by-law may prohibit a lot being used for the purposes of a short-term rental accommodation arrangement, and
- (b) conditions of development consent, or a lease, may impose additional restrictions.

- (h) the dwelling must not be a moveable dwelling within the meaning of the *Local Government Act 1993*.

**Division 3 Part does not apply to Byron until 31 January 2022**

**51F Application of Part to Byron local government area**

This Part does not apply to Byron local government area until 31 January 2022.

## **Schedule 2 Amendment of environmental planning instruments**

### **2.1 Bega Valley Local Environmental Plan 2013**

#### **Clause 6.11 Short-term rental accommodation**

Omit the clause.

### **2.2 Blue Mountains Local Environmental Plan 2015**

#### **Clause 6.29 Short-term rental accommodation**

Omit the clause.

### **2.3 Eurobodalla Local Environmental Plan 2012**

#### **Clause 6.15 Short-term rental accommodation**

Omit the clause.

### **2.4 Gosford Local Environmental Plan 2014**

#### **[1] Clause 7.6 Short-term rental accommodation**

Omit the clause.

#### **[2] Schedule 2 Exempt development**

Omit the matter relating to **Short-term rental accommodation**.

#### **[3] Dictionary**

Omit the definition of *short-term rental accommodation*.

### **2.5 Kiama Local Environmental Plan 2011**

#### **Clause 6.10 Short-term rental accommodation**

Omit the clause.

### **2.6 Lake Macquarie Local Environmental Plan 2014**

#### **[1] Clause 7.25 Short-term rental accommodation**

Omit the clause.

#### **[2] Schedule 2 Exempt development**

Omit the matter relating to **Short-term rental accommodation**.

#### **[3] Dictionary**

Omit the definition of *short-term rental accommodation*.

### **2.7 Palerang Local Environmental Plan 2014**

#### **Clause 6.12 Short-term rental accommodation**

Omit the clause.

## **2.8 Pittwater Local Environmental Plan 2014**

### **[1] Schedule 2 Exempt development**

Omit the matter relating to **Short-term holiday rental accommodation**.

### **[2] Dictionary**

Omit the definition of *short term holiday rental accommodation*.

## **2.9 Port Stephens Local Environmental Plan 2013**

### **Clause 7.18 Short-term rental accommodation**

Omit the clause.

## **2.10 Queanbeyan Local Environmental Plan 1998**

### **Schedule 1 Dictionary**

Insert “, but does not include an establishment providing short-term rental accommodation within the meaning of Part 3A of *State Environmental Planning Policy (Affordable Rental Housing) 2009*” after “souvenir shops” in the definition of *tourist facilities*.

## **2.11 Shoalhaven Local Environmental Plan 1985**

### **Clause 20BB Short-term accommodation**

Omit the clause.

## **2.12 Shoalhaven Local Environmental Plan 2014**

### **Clause 7.13 Short-term rental accommodation**

Omit the clause.

## **2.13 Shoalhaven Local Environmental Plan (Jerberra Estate) 2014**

### **Clause 6.4 Short-term rental accommodation**

Omit the clause.

## **2.14 State Environmental Planning Policy (Gosford City Centre) 2018**

### **[1] Clause 7.4 Short-term rental accommodation**

Omit the clause.

### **[2] Schedule 2 Exempt development**

Omit the matter relating to **Short-term rental accommodation**.

### **[3] Dictionary**

Omit the definition of *short-term rental accommodation*.

## **2.15 Wingecarribee Local Environmental Plan 2010**

### **Clause 7.11 Short-term rental accommodation**

Omit the clause.



## **2.16 Wyong Local Environmental Plan 2013**

**[1] Clause 7.18 Short-term rental accommodation**

Omit the clause.

**[2] Schedule 2 Exempt development**

Omit the matter relating to **Short-term rental accommodation**.

**[3] Dictionary**

Omit the definition of *short-term rental accommodation*.