



New South Wales

Environmental Planning and Assessment Amendment (Affordable Housing) Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2021* and *State Environmental Planning Policy (Housing) 2021* to ensure that affordable housing is retained in perpetuity for very low, low and moderate income households.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Environmental Planning and Assessment Act 1979 No 203

Schedule 1[1] omits the definition of *affordable housing* from section 1.4.

Schedule 1[2] inserts proposed Division 4.12 into the *Environmental Planning and Assessment Act 1979 (the Act)*. Proposed Division 4.12, section 4.71 introduces a new definition of *affordable housing* that requires affordable housing to be held in perpetuity for the benefit of very low, low and moderate income households, and ensures that affordable housing can only be leased to these households at no more than 30% of the household's gross income. The proposed section inserts other definitions into the Act related to affordable housing that are currently contained in *State Environmental Planning Policy (Housing) 2021*. The proposed division also inserts sections 4.72

and 4.73. Proposed section 4.72 requires a consent authority to be satisfied that, from the date of the issue of the occupation certificate and continuing in perpetuity, the affordable housing component of a development will be used for affordable housing and managed by a registered community housing provider. Proposed section 4.73 requires the Minister administering the Act to keep a register of affordable housing, and requires consent authorities to provide certain information to the Minister within 14 days after the date on which the occupation certificate is issued for development that includes affordable housing.

Schedule 2 Amendment of Environmental Planning and Assessment Regulation 2021

Schedule 2[1]–[6] amend sections 82 and 84 of the *Environmental Planning and Assessment Regulation 2021* to ensure that, for development for the purposes of affordable housing carried out under *State Environmental Planning Policy (Housing) 2021*, Chapter 2, Part 2, Divisions 1 and 5, it is a condition of the development consent that the affordable housing component of the development is used for affordable housing and managed by a registered community housing provider in perpetuity.

Schedule 3 Amendment of State Environmental Planning Policy (Housing) 2021

Schedule 3[1] makes an amendment consequent on the amendments made to the Act by the proposed Act.

Schedule 3[2] amends *State Environmental Planning Policy (Housing) 2021*, section 21 to provide that a consent authority must not grant consent for development for the purposes of affordable housing carried out under the policy, Chapter 2, Part 2, Division 1, unless the consent authority is satisfied the affordable housing component of the residential development will be used for affordable housing and managed by a registered community housing provider from the date of the issue of the occupation certificate and continuing in perpetuity.

Schedule 3[3] amends *State Environmental Planning Policy (Housing) 2021*, section 40 to provide that a consent authority must not grant consent for development for the purposes of affordable housing carried out under the policy, Chapter 2, Part 2, Division 5, unless the consent authority is satisfied the affordable housing component of the residential development will be used for affordable housing and managed by a registered community housing provider from the date of the issue of the occupation certificate and continuing in perpetuity.