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**Amendments to the State
Environmental Planning
Policy (Housing) 2021**

**AMENDMENTS TO THE STATE ENVIRONMENTAL PLANNING
POLICY (HOUSING) 2021**

On 24 April 2026 the Government introduced a series of amendments to the *State Environmental Planning Policy (Housing) 2021* (**Housing SEPP**). The amendments have three key implications.

First, the low and mid rise housing regime introduced under Chapter 6 of the Housing SEPP (**LMR Scheme**) has been expanded to provide height and floor space uplift for certain seniors housing development within the low and mid-rise housing areas.

Second, changes have been made to strengthen the minimum car-parking standard for 'in fill affordable housing' development.

Third, land which was previously excluded from the LMR scheme due to flood constraints is now included in the Scheme.

The changes have immediate effect and apply to all development applications lodged after 24 April 2026. There is however a savings provisions which prevents the changes from applying to applications that were pending as at 24 April 2026.

Local Councils and proponents should familiarise themselves with the amendments as they have implications for the assessment of development applications and development yield, particularly those that rely on the LMR provisions.

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We address the changes in more detail below.

Seniors housing within the low and mid rise housing area

- Changes have been introduced which provide 'uplift' for seniors housing development located within a 'low and mid rise housing area' through the introduction of a series of 'non-discretionary development standards'.
- Previously, the uplift for development within the LMR areas only applied to certain forms of residential development which did not clearly include seniors housing. In summary, the effect of the changes is as follows:
 - Independent living units on land in a LMR area and zoned R1 General Residential or R2 Low Density Residential may now have a maximum floor space ratio of 0.8:1.
 - Independent living units, hostels and residential care facilities on land in an LMR inner area (i.e within 400m of a town centre or station) and zoned R3 Medium Density Residential or R4 High Density Residential may have a maximum floor space ratio of 2.2:1 and a maximum building height of either 24m (if part of a shop top housing development) or otherwise 22m.
 - Independent living units, hostels and residential care facilities on land in an LMR outer area (i.e between 400m - 800m of a town centre or station) and zoned R3 Medium Density Residential or R4 High Density Residential may have a maximum floor space ratio of 1.5:1 and a maximum building height of 17.5m.
- The above new standards are 'non-discretionary development standards', this means that if the proposed development complies with the standards the consent authority cannot refuse the application on the basis of the matters set out in the standard or impose conditions which are more stringent than the standard.
- This is a facultative change to the instrument. However, the change is captured by the savings provision. Per *Barhom v Randwick City Council [2024] NSWLEC 1357* at [66]-[69] the changes could be relied upon in a cl 4.6 variation request for a saved development application which complies with the new standards.

Car parking requirements for affordable housing development

- There has been a slight tweak to the operation of the minimum car-parking standard applicable to 'in-fill affordable housing' development under Chapter 2 of the Housing SEPP.
- The minimum car-parking rates were previously a 'non-discretionary development standard' under sections 19(1)(e) and (f) of the Housing SEPP.
- Unlike a conventional development standard, compliance with a non-discretionary development standard is not mandatory (although this has been the subject of debate – see *Patchy Properties Pty Ltd v Randwick City*

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Council [2026] NSWLEC 1190 at [99]-[105]) and a proponent may choose to not comply and instead provide car-parking below the specified rate (for example, in accordance with some other less stringent requirement under the *Guide to Traffic Generating Developments* or the applicable development control plan).

- The recent amendments have made the car-parking standard a conventional development standard, now found at s 22A of the Housing SEPP, meaning that compliance with the standard is now clearly mandatory.
- Development consent must not be granted unless the minimum number of car parks specified in the standard are provided, unless a clause 4.6 request is provided and is found to justify the contravention.
- This is a strengthening of the previous position and clarifies that a clause 4.6 request will be required that adequately justifies the contravention if the development does not comply.

Expansion of LMR Scheme to include certain flood affected land

- The LMR Scheme in Chapter 6 of the Housing SEPP did not previously apply to any land located within the Georges River Catchment or the Hawkesbury-Nepean Catchment that was 'flood prone'.
- This excluded large swathes of land that would have otherwise benefited from the LMR Scheme because 'flood prone' land is defined broadly to include any land that is susceptible to flooding in the probable maximum flood event.
- The exclusion has now been limited, to only capture land that:
 - In the Hawkesbury-Nepean Catchment, is identified as 'probable maximum flood' in a map within the *Hawkesbury-Nepean River Flood Study—Flood Study Report* dated May 2024.
 - In the Georges River Catchment, is susceptible to flooding in the PMF event and is located in any of the following local government areas: Canterbury-Bankstown; Cumberland; City of Fairfield; Georges River; City of Liverpool; Sutherland Shire.
- The practical effect of this change is that certain land which might have been excluded from the LMR Scheme due to flood susceptibility (even if this risk were minor) is now included.
- Local Councils and proponents should carefully familiarise themselves with the new exclusions to the LMR Scheme when assessing or preparing development applications that rely on the LMR Scheme, particularly those related to flood.
- If a catchment wide flood study is completed for the Georges River Catchment which identifies land that is susceptible to the PMF Event (as has been done for the Hawkesbury – Nepean Catchment), we expect the

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Housing SEPP will be further amended to exclude land within the Georges River Catchment by reference to that study.

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