



New South Wales

# **State Environmental Planning Policy Amendment (National Construction Code) 2023**

under the

**Environmental Planning and Assessment Act 1979**

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ANTHONY ROBERTS, MP  
Minister for Planning

## **State Environmental Planning Policy Amendment (National Construction Code) 2023**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy Amendment (National Construction Code) 2023*.

### **2 Commencement**

This Policy commences on 1 May 2023.

### **3 Repeal of Policy**

This Policy is repealed on the day following the day on which this Policy commences.

## Schedule 1 Amendment of local environmental plans

### 1.1 Bathurst Regional Local Environmental Plan 2014

[1] **Clause 1.8A, heading**

Omit the heading. Insert instead—

**1.8A Savings**

[2] **Clause 1.8A(3)**

Insert after clause 1.8A(2)—

- (3) An application for a complying development certificate lodged before 1 May 2023 must be determined as if *State Environmental Planning Policy Amendment (National Construction Code) 2023* had not commenced.

[3] **Schedule 3, Part 1, clause 2(6)(e) and Part 2, clauses 1.2(22) and 1.3(2)**

Omit “Table 7.4a of *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” wherever occurring.

Insert instead “*Planning for Bush Fire Protection*, Table 7.4a”.

[4] **Dictionary**

Insert in alphabetical order—

*Planning for Bush Fire Protection* means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

### 1.2 Blue Mountains Local Environmental Plan 2005

**Dictionary**

Omit the definition of *Planning for Bush Fire Protection*. Insert instead—

*Planning for Bush Fire Protection* means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

### 1.3 Blue Mountains Local Environmental Plan 2015

[1] **Dictionary**

Omit “, 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” from the definition of *asset protection zone*.

[2] **Dictionary**

Insert in alphabetical order—

*Planning for Bush Fire Protection* means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

### 1.4 Lake Macquarie Local Environmental Plan 2004

[1] **Clause 33 Bush fire considerations**

Omit “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, and” from clause 33(3)(a).

**[2] Clause 33(5)**

Insert after clause 33(4)—

(5) In this clause—

*Planning for Bush Fire Protection* means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

## **1.5 Shellharbour Rural Local Environmental Plan 2004**

**[1] Clause 39 Bush fire risk assessment**

Omit “the document entitled *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, available from the Council” from clause 39(2)(e).

Insert instead “*Planning for Bush Fire Protection*, available from the Council.”.

**[2] Dictionary**

Omit the definition of *asset protection zone*. Insert in alphabetical order—

*asset protection zone* has the same meaning as in *Planning for Bush Fire Protection*.

*Planning for Bush Fire Protection* means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

## **1.6 Shoalhaven Local Environmental Plan 1985**

**[1] Clause 6 Interpretation**

Insert in alphabetical order in clause 6(1)—

*Planning for Bush Fire Protection* means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

**[2] Clause 11C Subdivision—boundary adjustments**

Omit “the *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” from clause 11C(2)(k)(i).

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

**[3] Clause 28 Danger of bush fire**

Omit “, , 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” from clause 28(3)(a).

## **1.7 Sutherland Shire Local Environmental Plan 2006**

**[1] Clause 58B, heading**

Omit “**provision**”. Insert instead “**provisions**”.

**[2] Clause 58B**

Insert at the end of clause 58B—

- (2) An application for a complying development certificate lodged before 1 May 2023 must be determined as if *State Environmental Planning Policy Amendment (National Construction Code) 2023* had not commenced.

**[3] Schedule 3 Complying Development**

Omit “the NSW Rural Fire Service guidelines titled *Planning for Bush Fire Protection* ISBN 978 0 646 99126 9, dated November 2019” wherever occurring.

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

**[4] Dictionary**

Insert in alphabetical order—

***Planning for Bush Fire Protection*** means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

## 1.8 Sutherland Shire Local Environmental Plan 2015

**[1] Clause 1.8A Savings**

Insert after clause 1.8A(3)—

- (4) An application for a complying development certificate lodged before 1 May 2023 must be determined as if *State Environmental Planning Policy Amendment (National Construction Code) 2023* had not commenced.

**[2] Schedule 3 Complying development**

Omit clause 1(5), definition of ***Planning for Bush Fire Protection***.

Insert instead—

***Planning for Bush Fire Protection*** means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

## 1.9 Tweed Local Environmental Plan 2000

**[1] Clause 39A Bushfire protection**

Omit “the document entitled *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,” from clause 39A(3).

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

**[2] Clause 39A(4)**

Insert after section 39A(3)—

- (4) In this clause—  
***Planning for Bush Fire Protection*** means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

## 1.10 Wagga Wagga Local Environmental Plan 2010

**[1] Schedule 2 Exempt development**

Omit “, 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” from the matter relating to **Emergency service facilities**, subclause (11).

**[2] Dictionary**

Insert in alphabetical order—

*Planning for Bush Fire Protection* means the document prescribed by the  
*Environmental Planning and Assessment Regulation 2021*, section 271.

**1.11 Warringah Local Environmental Plan 2011**

**Clause 6.8 Subdivision of certain land**

Omit clause 6.8(4), definition of *Planning for Bush Fire Protection*.

Insert instead—

*Planning for Bush Fire Protection* means the document prescribed by the  
*Environmental Planning and Assessment Regulation 2021*, section 271.

**1.12 Yass Valley Local Environmental Plan (Parkwood) 2020**

**Clause 7.12 Conservation and urban interface**

Omit clause 7.12(4), definition of *Planning for Bush Fire Protection*.

Insert instead—

*Planning for Bush Fire Protection* means the document prescribed by the  
*Environmental Planning and Assessment Regulation 2021*, section 271.

## Schedule 2 Amendment of State environmental planning policies

### 2.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

#### [1] Section 3.2 Definitions

Omit the definition of *Planning for Bush Fire Protection*.

Insert instead—

*Planning for Bush Fire Protection* means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

#### [2] Section 4.2 Definitions

Omit section 4.2(1), definition of *Planning for Bush Fire Protection*.

Insert instead—

*Planning for Bush Fire Protection* means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

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

#### [1] Clause 1.5 Interpretation—general

Omit clause 1.5(1), definition of *Planning for Bush Fire Protection*. Insert instead—

*Planning for Bush Fire Protection* means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

#### [2] Clause 1.5(1), definition of “professional engineer”

Omit the note. Insert instead—

**Note—** The term is defined as a person who is—

- (a) if legislation is applicable—a registered professional engineer in the relevant discipline who has appropriate experience and competence in the relevant field, or
- (b) if legislation is not applicable—
  - (i) registered in the relevant discipline on the National Engineering Register (NER) of the Institution of Engineers Australia (which trades as ‘Engineers Australia’), or
  - (ii) eligible to become registered on the Institution of Engineers Australia’s NER and has appropriate experience and competence in the relevant field.

#### [3] Clause 1.13 Savings provisions

Insert after clause 1.13(6)—

- (7) An application for a complying development certificate lodged before 1 May 2023 must be determined as if *State Environmental Planning Policy Amendment (National Construction Code) 2023* had not commenced.

#### [4] Clauses 2.20B(1)(k), 2.40B(1)(d), 2.52(g), 2.54(g), 2.83(1)(i), 5.2(1)(j), 5.10(l), 5.18(n)(i) and 5A.6M(2)(a)

Omit “BP1.1 and BP1.2 of Volume 1 of the *Building Code of Australia*” wherever occurring.

Insert instead “the *Building Code of Australia*, Volume 1, B1P1 and B1P2”.

**[5] Clause 2.52 Development standards**

Omit “D1.4 of Volume 1 of the *Building Code of Australia*” from clause 2.52(e1)(i).

Insert instead “the *Building Code of Australia*, Volume 1, D2D5”.

**[6] Clause 2.52(f)**

Omit “Part 3.12.1 of the *Building Code of Australia*”.

Insert instead “the *ABCB Housing Provisions Standard*, Part 13.2”.

**[7] Clause 2.52(2)**

Insert at the end of clause 2.52—

(2) In this clause—

*ABCB Housing Provisions Standard* means the *Housing Provisions Standard* published by the Australian Building Codes Board in 2022.

**[8] Clause 5.2 Development standards**

Omit “DP2–DP5 of Volume 1 of the *Building Code of Australia*” from clause 5.2(2)(b)(i).

Insert instead “the *Building Code of Australia*, Volume 1, D1P2–D1P5”.

**[9] Clause 5.2(2)(b)(ii)**

Omit “FP2.1, FP2.5 and FP2.6 of Volume 1 of the *Building Code of Australia*”.

Insert instead “the *Building Code of Australia*, Volume 1, F4P1”.

**[10] Clause 5.2(2)(b)(iii)**

Omit “FP4.1–FP4.5 of Volume 1 of the *Building Code of Australia*”.

Insert instead “the *Building Code of Australia*, Volume 1, F6P1–F6P5”.

**[11] Clause 5.2(2)(c)**

Omit “CP2 and CP8 of Volume 1 of the *Building Code of Australia*”.

Insert instead “the *Building Code of Australia*, Volume 1, C1P2 and C1P8”.

## **2.3 State Environmental Planning Policy (Housing) 2021**

**[1] Section 57 Development standards for bush fire prone land**

Omit section 57(5), definition of *Planning for Bush Fire Protection*.

**[2] Section 96 Bush fire prone land**

Omit section 96(3), definition of *Planning for Bushfire Protection*.

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

Omit “clause E3.6 of the *Building Code of Australia*” from section 18.

Insert instead “the *Building Code of Australia*, Volume 1, E3D7 and E3D8”.

**[4] Schedule 7A Savings and transitional provisions**

Insert after section 4—

## **5 State Environmental Planning Policy Amendment (National Construction Code) 2023**

An application for a complying development certificate lodged before 1 May 2023 must be determined as if *State Environmental Planning Policy Amendment (National Construction Code) 2023* had not commenced.

### **[5] Dictionary**

Insert in alphabetical order—

***Planning for Bush Fire Protection*** means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

## **2.4 State Environmental Planning Policy (Precincts—Central River City) 2021**

### **[1] Section 5.45 How are trees and bushland vegetation preserved?**

Omit “the document entitled *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” from section 5.45(8)(c)(i).

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

### **[2] Section 5.45(10)**

Insert after section 5.45(9)—

(10) In this section—

***Planning for Bush Fire Protection*** means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

## **2.5 State Environmental Planning Policy (Precincts—Regional) 2021**

### **Schedule 1C Exempt development—Chapter 3**

Omit “*Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in November 2019” from the matter relating to Emergency services facilities—Wagga Wagga Activation Precinct only.

Insert instead “the document titled *Planning for Bush Fire Protection* prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271”.

## **2.6 State Environmental Planning Policy (Transport and Infrastructure) 2021**

### **[1] Section 2.9A**

Insert after section 2.9—

#### **2.9A Savings**

An application for a complying development certificate lodged before 1 May 2023 must be determined as if *State Environmental Planning Policy Amendment (National Construction Code) 2023* had not commenced.

### **[2] Sections 2.16(3), definition of “Planning for Bush Fire Protection” and 3.3(2), definition of “Planning for Bush Fire Protection”**

Omit the definitions. Insert instead—

*Planning for Bush Fire Protection* means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

**[3] Schedule 9 Savings and transitional provisions—Chapter 3**

Insert after section 3—

**4 State Environmental Planning Policy Amendment (National Construction Code) 2023**

An application for a complying development certificate lodged before 1 May 2023 must be determined as if *State Environmental Planning Policy Amendment (National Construction Code) 2023* had not commenced.