

# SEPP 10

**STATE ENVIRONMENTAL PLANNING POLICY NO. 10  
— RETENTION OF LOW COST RENTAL ACCOMMODATION  
EXPLANATORY NOTES AND INSTRUMENT**

**Department of Urban Affairs and Planning**

# **SEPP 10**

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— RETENTION OF LOW COST RENTAL ACCOMMODATION  
EXPLANATORY NOTES AND INSTRUMENT**

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# Explanatory Notes

These notes provide a clause-by-clause explanation of SEPP No. 10—Retention of Low-Cost Rental Accommodation, as amended on 28 January 2000 by Amendment No. 6. These notes are not part of SEPP 10. For legal purposes, refer to the provisions of the SEPP.

## **Clause 1**

Gives the name of the Policy.

## **Clause 2**

States the aims and objectives of the Policy.

## **Clause 3**

Lists definitions of terms used in the Policy.

## **Clause 3A**

Sub-clause (1) defines the term “low-rental residential building” to mean a boarding house, a hostel or a residential flat building containing a low-rental dwelling.

Sub-clause (2) explains that a “low rental dwelling” is a unit that, at any time in the last two years, was let at a rent not more than the median rent for that type of unit in that council area. Median rents are published by the NSW Government.

Sub-clause (3) explains that a building is still to be regarded as a low-rental residential building even if:

- it was erected for a different purpose
- its use has been unlawfully changed to something else
- it is now vacant, but the last significant use was for a low rental residential building

## **Clause 4**

Explains the areas where the Policy applies, which is all of the Greater Metropolitan Region.

**Clause 5**

Sub-clause (1) explains that where there is an inconsistency with another instrument, the provisions of SEPP 10 take precedence.

Sub-clause (2) states that the policy does not allow development that is prohibited by another planning instrument.

Sub-clause (3) states that clauses 9 and 10 of SEPP 4—Development Without Consent (which normally remove the need to obtain approval for minor building alterations and ancillary work) do not apply to alterations to low-rental residential buildings.

Sub-clause (4) states that development to which this policy applies cannot be specified as exempt or complying development under another environmental planning instrument. For example, a local environmental plan cannot exempt strata subdivision for low-rental residential flat buildings from requiring consent, nor can that be listed as complying development.

**Clause 6**

Sub-clause (1) explains that SEPP 10 only applies to buildings which were low rental residential buildings at 28 January 2000.

Sub-clause (2) exempts:

- single dwellings (“dwelling houses”)
- tourist-type uses such as backpackers accommodation, motels or licensed hotels/pubs
- buildings already strata subdivided (or approved for strata subdivision)
- buildings subject to SEPP 5—Housing for Older People or People with a Disability
- public housing residential flat buildings

**Clause 7**

Sub-clause (1) requires development consent for the demolition, alteration or addition, change of use or strata subdivision of a boarding house or hostel.

Sub-clause (2) requires development consent for alteration or addition or strata subdivision of a residential flat building.

Sub-clause (3) requires the concurrence of the Director-General of the Department of Urban

Affairs and Planning for approval of the above forms of development.

Sub-clause (4) lists the criteria that council is required to consider before determining a development application under the Policy. Council must consider whether:

- a major reduction in the number of low-rental households or units is likely
- sufficient comparable accommodation is available in the locality
- adverse social and economic effects are likely
- adequate arrangements have been made for re-housing displaced residents
- there would be a cumulative impact on loss of low-rental stock
- the building is structurally sound and complies with fire safety requirements, and the cost of rectifying any defects

Sub-clause (5) provides that a development cannot pass the comparable accommodation test if the Sydney rental vacancy rate for the previous quarter is less than 3%. This rate is published by the Real Estate Institute of NSW. If the vacancy rate is 3% or more, the council must still assess whether there is sufficient comparable accommodation in the locality, in accordance with the definition of comparable accommodation.

Sub-clause (6) explains what is meant by “locality” in sub-clause (4)(b). Locality includes the immediate locality and adjoining suburbs, as well as the area in which residents can get reasonable access to their existing social and support networks, local services and facilities (such as public transport, shops, hospitals, medical specialists, clubs, family, friends, church groups and social workers).

Sub-clause (7) identifies matters which the Director-General of Urban Affairs and Planning must consider in determining concurrence. These include all the matters specified in sub-clause (4). In the case of boarding houses, the Director-General must also assess the financial viability of the continued use of the boarding house, in accordance with the guidelines which accompany the Policy.

Sub-clause (8) states that the Director-General must refuse to grant concurrence if the cumulative



impact of the loss of the low rental residential accommodation will result in a significant reduction in the stock of that accommodation in that area.

Sub-clause (9) states that, despite sub-clause (8), the Director-General may grant concurrence if the building is structurally unsound or, in the case of a boarding house, its continued use is not financially viable.

**Clause 8**

Provides that the Policy (as amended by Amendment No. 6) does not apply to a development application lodged before 28 January 2000. However, in the 17 areas which were previously covered by the Policy, development applications lodged before that date must be assessed under the previous SEPP 10 provisions.

**Schedule 1**

Schedule 1 lists the areas to which the policy applies — all council areas in the Greater Metropolitan Region.