

1990 – No. 174

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
STATE ENVIRONMENTAL PLANNING POLICY No. 28 –
TOWN HOUSES AND VILLA HOUSES (AMENDMENT No. 1)**

NEW SOUTH WALES



[Published in Gazette No. 43 of 29 March 1990]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Environmental Planning and Assessment Act 1979, has been pleased to make the State Environmental Planning Policy set forth hereunder in accordance with the recommendation made by the Minister for Planning.

DAVID HAY
Minister for Planning.

Sydney, 28 March, 1990.

Citation

1. This Policy may be cited as State Environmental Planning Policy No. 28 – Town Houses and Villa Houses (Amendment No. 1).

Principal Policy

2. In this Policy, State Environmental Planning Policy No. 25 – Town Houses and Villa Houses is referred to as the Principal Policy.

Aims, objectives etc.

3. This Policy aims:

- (a) to defer the application of the Principal Policy to certain land until requests by the relevant councils for the land to be excluded from the Policy have been thoroughly evaluated; and
- (b) to allow a Council, with the Director's approval, to prepare a development control code prohibiting development for the purpose of town houses or villa houses, but not both, on land to which the Principal Policy applies; and
- (c) to ensure that heritage issues are thoroughly considered in determining whether land should be excluded from the Principal Policy and in determining development applications under the Policy.

Amendment of Principal Policy

4. The Principal Policy is amended:

- (a) by omitting clause 4 (3) and by inserting instead the following subclause:
 - (3) In this Policy, a reference to a heritage conservation area or a heritage item is a reference, respectively, to:
 - (a) an area identified as a conservation area or a heritage conservation area; and
 - (b) a building work, relic, tree or place identified as a heritage item or an item of the environmental heritage,in an environmental planning instrument, a draft environmental planning instrument placed on exhibition pursuant to section 47 (b) or 66 (1) (b) of the Act or a heritage study that has been adopted by the Council.
- (b) by omitting clause 5 (8) and (9);
- (c) by omitting clause 7 (2) and by inserting instead the following subclauses:
 - (2) This clause comes into operation on 30 March 1990 in relation to all land to which this Policy applies, except land for which the operation of this clause is deferred pursuant to subclause (3).
 - (3) The Minister may, by notification published in the Gazette not later than 30 March 1990, defer the operation of

this clause in relation to land specified or described in the notification, being the whole or part of land which is the subject of a request by a Council for exclusion from the Policy.

(4) The Minister may, by a subsequent notification published in the Gazette, declare that, on a date specified in the notification, the deferral ceases to apply in relation to the land and that on and from that date this clause comes into operation in relation to that land.

(5) The Minister may only make a declaration under subclause (4) after:

- (a) taking into account the Council's request for exclusion from the Policy; and
- (b) considering the findings and recommendations of any Commissioner or other independent person appointed to conduct a hearing with respect to the request.

(d) by inserting after clause 8 (3) the following subclause:

(3A) A development control code may provide that development for the purposes of either town houses or villa houses, but not both, is prohibited on land to which this Policy applies.

(e) by omitting clause 10 (1) (e) and by inserting instead the following paragraph:

(e) the effect of the development:

- (i) on the significance of any heritage conservation area;
- (ii) on the significance of any heritage item and on any stylistic or horticultural features of its site and setting;

(f) by omitting item 8 from Schedule 2 and by inserting instead the following item:

8. The land is, or is within, a heritage conservation area or comprises or has situated on it a heritage item.
