



New South Wales

# **State Environmental Planning Policy No 5—Housing For Older People or People with a Disability**

under the

Environmental Planning and Assessment Act 1979

His 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* in accordance with the recommendation made by the Minister for Urban Affairs and Planning.

CRAIG KNOWLES MP

Minister for Urban Affairs and Planning

## 1998 No 9

State Environmental Planning Policy No 5—Housing For Older People or People with a Disability

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## **1998 No 9**

Clause 1      State Environmental Planning Policy No 5—Housing For Older People or People with a Disability

Part 1      Preliminary

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# **State Environmental Planning Policy No 5— Housing For Older People or People with a Disability**

## **Part 1      Preliminary**

### **1      Name of Policy**

*This Policy is State Environmental Planning Policy No 5—  
Housing for Older People or People with a Disability.*

### **2      Commencement**

This Policy commences on 14 February 1998.

### **3      Aims**

- (1) This Policy aims to encourage the provision of housing that will:
  - (a) increase the supply and diversity of housing that meets the needs of older people or people with a disability, and
  - (b) make efficient use of existing infrastructure and services, and
  - (c) be of good design
- (2) These aims will be achieved by:
  - (a) setting aside local planning controls that would prevent the development of housing for older people or people with a disability that meets the development standards specified in this Policy, and
  - (b) ensuring that applicants and councils take into consideration the level of additional demand for support services for older people or people with a disability in the council's area to be generated by the development when preparing and assessing development applications that are affected by this Policy. and

- (c) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and location.

#### **4 Where this Policy applies**

- (1) This Policy applies to land within New South Wales:
  - (a) that is zoned primarily for urban purposes, or that adjoins land zoned primarily for urban purposes, and
  - (b) on which development for the purpose of any of the following is permitted:
    - (i) dwelling-houses,
    - (ii) residential flat buildings,
    - (iii) hospitals,
    - (iv) special uses including churches, convents, educational establishments, schools and seminaries.
- (2) This Policy does not apply to:
  - (a) land described in Schedule 1 (Environmentally sensitive land), or
  - (b) the land to which *Sydney Regional Environmental Plan No 17—Kurnell Peninsula* applies.

#### **5 Relationship to other environmental planning instruments**

- (1) This Policy repeals *State Environmental Planning Policy No 5—Housing for Aged or Disabled Persons*.
- (2) If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, this Policy prevails to the extent of the inconsistency.
- (3) This Policy does not affect a provision in another environmental planning instrument that relates to the demolition of a heritage item.

#### **6 Definitions**

Expressions used in this Policy that are defined in the Dictionary at the end of this Policy have the meanings given in the Dictionary.

#### **7 Notes**

Notes to provisions of this Policy do not form part of this Policy. They are provided to assist understanding.

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Clause 6 State Environmental Planning Policy No 5—Housing For Older People or People with a Disability

Part 1 Preliminary

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### 8 Suspension of certain covenants etc

- (1) For the purpose of enabling development to be carried out in accordance with this Policy or in accordance with a consent granted under the Act, any agreement or covenant imposing restrictions on any such development, to the extent necessary to serve that purpose, does not apply to the development.
- (2) Subclause (1) does not apply to a covenant in favour of Sydney Water Corporation Limited or a water supply authority listed in Schedule 1 to the *Water Supply Authorities Act 1987*.
- (3) Before this Policy was made, the Governor approved subclause (1) under section 28 of the Act.

## Part 2 Development criteria

### 9 Objective

The objective of this Part is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those older people who are independent, mobile and active as well as those who are frailer, and other people with a disability regardless of their age.

### 10 What this Part does

This Part allows development for the purpose of any form of housing for older people or people with a disability, despite the provisions of any other environmental planning instrument, if the development is carried out in accordance with this Policy.

### 11 Development consent

Development allowed by this Part may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.

### 12 Matters for consideration

#### (1) Location, facilities and support services

The consent authority must not consent to a development application made pursuant to this Part unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have reasonable access to:

- (a) shops, banks and other retail and commercial services that residents may reasonably require, and
- (b) community services and recreation facilities, and
- (c) health services, and
- (d) transport,

and, where appropriate:

- (e) home delivered meals, or
- (f) personal care and home nursing, or

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Clause 12 State Environmental Planning Policy No 5—Housing For Older People or People with a Disability

Part 2 Development criteria

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- (g) assistance with housework, or
  - (h) on site communal meeting spaces (internal and/or external).
- (2) In deciding whether the level of access residents have to each facility and service listed in subclause (1) is reasonable (whether provided as a part of the development or by an external service provider) the consent authority must consider the following:
- (a) the type of housing proposed and the needs of the people who are most likely to occupy that type of housing,
  - (b) whether the type or scale of housing proposed could, or may reasonably be expected to, provide some facilities and services on site in a cost effective manner,
  - (c) whether any relevant facility or service is or will be convenient to residents of the proposed housing in view of the walking distance and availability of public transport to and from the facility,
  - (d) the affordability of any relevant facility or service.
- (3) **Availability of facilities and services**  
The consent authority must be satisfied that any facility or service provided as a part of the development will be available to residents when the housing is ready for occupation. In the case of a staged development, the facilities or services may be provided proportionately according to the number of residents in each stage.
- (4) **Water and sewer**
- (a) The consent authority must not consent to a development application made pursuant to this Part unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.
  - (b) Where the water and sewerage services referred to in subclause (4) (a) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that



the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development.

**Note.** Information and assessment guidelines provide assistance to councils in assessing location and provision of services.

### 13 Development standards

A consent authority must not consent to a development application made pursuant to this Part unless:

(a) **wheelchair access:**

- (i) at least 50 per cent of any hostel or residential care facility beds and at least 50 per cent of any dwellings will have wheelchair access to an adjoining public road or an internal road or a driveway that is accessible to all residents, and

**Note.** Australian Standard AS 1428–1992, 1993 (Design for Access and Mobility) should be referred to for design.

- (ii) at least 10 per cent of any hostel or residential care facility beds and 10 per cent of any dwellings which meet the requirements of subparagraph (i) will have wheelchair access to an adjoining public road, and

- (iii) at least 10 per cent of any hostel or residential care facility beds and 10 per cent of any dwellings which meet the requirements of subparagraph (i) also have, or are capable of being modified so that they have, wheelchair access to all essential areas and facilities inside the hostel, residential care facility or dwellings, including a toilet, bathroom, bedroom and a living area, and

- (iv) access is provided so that a person using a wheelchair can use common areas and facilities associated with the development, and

- (b) **height in zones where residential flat buildings are not permitted:** if the development is proposed in a residential zone where residential flat buildings are not permitted, the height of all buildings in the proposed development is less than 8 metres.

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Clause 14 State Environmental Planning Policy No 5—Housing For Older People or People with a Disability

Part 2 Development criteria

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### 14 Standards which cannot be used as grounds for refusal

The consent authority must not refuse consent to a development application under this Part on the grounds of:

- (a) **building height:** if all proposed buildings are 8 metres or less in height, or
- (b) **density and scale:** if the density and scale of the buildings when expressed as a floor space ratio is:
  - (i) 0.5:1 or less, except as provided by subparagraph (ii), or
  - (ii) 0.75:1 or less for hostels and residential care facilities located within 400 metres walking distance of a public transport node (being a public transport facility such as a railway station, bus stop, or ferry wharf, that is serviced on a frequent and regular basis in daylight hours), or
- (c) **landscaped area:** if a minimum of 35m<sup>2</sup> of landscaped area per dwelling and 25m<sup>2</sup> of landscaped area per hostel or residential care facility bed is provided, or
- (d) **parking:** if at least the following is provided:
  - (i) in the case of a hostel or residential care facility, at least:
    - parking space for each 10 beds in the hostel or residential care facility, and
    - 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and
    - 1 parking space suitable for an ambulance, and
  - (ii) in the case of dwellings, at least:
    - 0.5 car spaces for each bedroom where the development application is made by a person other than the Department of Housing or a local government or community housing provider. or

- 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, the Department of Housing or a local government or community housing provider.

**15 Who can live in housing for older people or people with disabilities?**

Development allowed by this Policy may be carried out for the accommodation of the following:

- (a) older people or people who have a disability,
- (b) people who live with older people or people who have a disability,
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

**16 Hospitals and nursing homes**

Development for the purpose of a hospital or nursing home may be carried out in connection with other development allowed by this Policy, but only with the consent of the consent authority.

**17 Department of Housing and local government or community housing providers**

Paragraphs (c), (e), (f) and (g) of clause 12 (1) do not apply to or in respect of a development application made by, or is made by a person jointly with, the Department of Housing or a local government or community housing provider.

**18 Subdivision**

Land on which development has been carried out under this Policy may be subdivided with the consent of the consent authority.

**19 Heritage conservation areas and heritage items**

- (1) If development to which this Policy applies is proposed to be carried out in a heritage conservation area or in the vicinity of a heritage item and the area or item is identified as being of State or regional significance in another environmental planning

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Clause 19 State Environmental Planning Policy No 5—Housing For Older People or People with a Disability

Part 2 Development criteria

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instrument, the consent authority, before granting development consent, must notify the Heritage Council of New South Wales of its intention to grant development consent and must take into consideration any comments received from the Heritage Council within 28 days after the notification is given.

- (2) The consent authority is not required to give notification under this clause if it is of the opinion that the proposed development will not adversely affect the heritage significance of the heritage conservation area or heritage item.

## **Part 3 Design requirements**

### **20 Objective**

The objective of this Part is to establish a process that encourages good design in residential development allowed by this Policy.

### **21 Development to which this Part applies**

This Part applies to development that is allowed to be carried out with development consent by this Policy.

### **22 When this Part applies**

This Part applies when a consent authority is determining an application for consent to the carrying out of development to which this Part applies.

### **23 What this Part does**

This Part requires certain design aspects to be taken into account when a consent authority considers an application for consent for the carrying out of development to which this Part applies.

### **24 Site analysis**

- (1) Consent must not be granted for development to which this Part applies unless the consent authority has taken into account a site analysis prepared in accordance with this clause.
- (2) A site analysis must:
  - (a) contain information, where appropriate, about the site and its surrounds as described in Schedule 2 (Site analysis), and
  - (b) be accompanied by a written statement explaining how the design of the proposed development has regard to the site analysis.

### **25 Design of residential development**

Consent must not be granted for development to which this Part applies unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the following principles:

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Clause 25 State Environmental Planning Policy No 5—Housing For Older People or People with a Disability

Part 3 Design requirements

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- (a) **Streetscape:** The proposed development should:
- (i) contribute to an attractive residential environment with clear character and identity, and
  - (ii) where possible, retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan.
- (b) **Visual and acoustic privacy:** The proposed development should, where practicable, consider the visual and acoustic privacy of neighbours in the vicinity and residents by:
- (i) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and
  - (ii) ensuring acceptable noise levels in internal living and sleeping areas of new dwellings.
- Note.** Australian Standards AS 2107–1987 (Acoustics) and AS 3671 (Road Traffic Noise Intrusion) should be referred to in establishing acceptable noise levels.
- (c) **Solar access and design for climate:** The proposed development should, where possible:
- (i) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and
  - (ii) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting.
- Note.** AMCORD A National Resource Document for Residential Development, 1995, may be referred to in establishing adequate solar access and dwelling orientation appropriate to the climatic conditions.
- (d) **Stormwater:** The proposed development should, where possible:
- (i) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters, and

- (ii) include, where practical, on-site stormwater detention or re-use for second quality water uses, and
  - (iii) be designed with regard to the scope for on-site infiltration of water.
- (e) **Crime prevention:** The proposed development should, where possible, provide personal property security for residents and visitors and encourage crime prevention by:
  - (i) site planning that allows, from inside each dwelling, general observation of the street, the site and the approaches to the dwelling's entry, and
  - (ii) providing shared entries that serve a small number of dwellings and are able to be locked, and
  - (iii) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.
- (f) **Accessibility:** The proposed development should, where appropriate:
  - (i) have convenient, obvious and safe pedestrian and bicycle links from the site that provide access to public transport services and local facilities, and
  - (ii) provide attractive, yet safe, environments for pedestrians, cyclists and motorists with convenient access and parking for residents and visitors, and
  - (iii) where feasible, involve site layout and design that enables people with a disability to access, on one continuous accessible path of travel, the street frontage, car parking, and all buildings, facilities and open spaces within the site.

**Note.** Australian Standards AS 4299–1995 (Adaptable Housing) and AS 1428—1992, 1993 (Design for Access and Mobility) should be referred to for design in considering people with a disability.
- (g) **Waste management:** The proposed development should, where possible, be provided with waste facilities that maximise recycling by the provision of appropriate facilities.

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Clause 25 State Environmental Planning Policy No Mousing For Older People or People with a Disability

Part 3 Design requirements

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- (h) **Visual bulk:** The proposed development should, where practicable, maintain reasonable neighbour amenity and appropriate residential character by:
- (a) providing building setbacks that progressively increase as wall heights increase to reduce bulk and overshadowing, and
  - (b) using building form and siting that relates to the site's land form. and
  - (c) adopting building heights at the street frontage that are compatible in scale with adjacent development, and
  - (d) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.



## **Part 4 Transitional provision**

### **26 Development applications made before commencement of Policy**

A provision of this Policy does not apply to or in respect of the determination of a development application made, but not determined, before the commencement of the provision.

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Schedule 1 Environmentally sensitive land

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### Schedule 1 Environmentally sensitive land

(Clause 4 (2))

Land identified in another environmental planning instrument by any of the following descriptions or by like descriptions or by descriptions that incorporate any of the following words or expressions:

- coastal protection
- conservation (but not land identified as a heritage conservation area in another environmental planning instrument)
- critical habitat
- environment protection
- open space
- escarpment
- floodway
- natural hazard
- scenic (but not land that is so identified if:
  - (a) the land is within a residential zone in which development of two storeys or more in height is permitted, or
  - (b) an adjacent residential zone, also identified as scenic, permits development of two storeys or more in height)
- water catchment
- natural wetland

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## Schedule 2 Site analysis

(Clause 24 (2))

### COMPONENTS OF A SITE ANALYSIS

#### The Site

Investigation of the site should identify:

- **Site dimensions:**
  - length
  - width
- **Topography:**
  - spot levels and/or contour
  - north point
  - natural drainage
  - any contaminated soils or filled areas
- **Services:**
  - easements
  - connections for drainage and utility services
- **Existing vegetation:**
  - location
  - height
  - spread of established trees
  - species
- **Micro climates:**
  - orientation
  - prevailing winds
- **Location of:**
  - buildings and other structures
  - heritage features and items including archaeology
  - fences
  - property boundaries
  - pedestrian and vehicle access
- **Views** to and from the site
- **Overshadowing** by neighbouring structures

### The Surrounds

Investigation of the surrounds should identify:

- **Neighbouring buildings:**
  - location
  - height
  - use
- **Privacy:**
  - adjoining private open spaces
  - living room windows overlooking site (particularly those within 9m of the site)
  - location of any facing doors and/or windows
- **Walls built to the site's boundary:**
  - location
  - height
  - materials
- **Difference in levels** between the site and adjacent properties at their boundaries
- **Views** and **solar** access enjoyed by neighbouring properties
- **Major trees** on adjacent properties, particularly those within 9m of the subject site
- **Street frontage features:**
  - poles
  - trees
  - kerb crossovers
  - bus stops
  - other services
- The **built form** and **character** of adjacent development including:
  - architectural character
  - front fencing
  - garden styles
- **Heritage features** of surrounding locality and landscape

- **Direction and distance to local facilities:**
  - local shops
  - schools
  - public transport
  - recreation and community facilities
- **Public open space:**
  - location
  - use
- Adjoining **bushland** or **environmentally sensitive land**
- **Sources of nuisance:**
  - flight paths
  - noisy roads or significant noise sources
  - polluting operations

## Dictionary

(Clause 6)

**consent authority** for a development application means:

- (a) except as provided by paragraph (b)—the council of the area in which it is proposed to carry out the development, or
- (b) if another environmental planning instrument provides for another consent authority for the kind of development proposed—that other consent authority.

**critical habitat** is an area or areas of land comprising the habitat of an endangered species, population or ecological community.

**dwelling** means a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.

**environmental planning instrument** means a State environmental planning policy, a regional environmental plan, or a local environmental plan, and includes a deemed environmental planning instrument.

**floor space ratio** in relation to a building, means the ratio of the gross floor area of the building (exclusive of the area of any car port or garage) to the area of the allotment on which the building is or is proposed to be erected.

**gross floor area** means the sum of the areas of each floor of a building, where the area of each floor is taken to be the area within the outer face of the external enclosing walls (as measured at a height of 1 400 millimetres above each floor level), excluding:

- (a) columns, fin walls, sun control devices and any elements, projections or works outside the general lines of the outer face of the external wall. and
- (b) lift towers, cooling towers, machinery and plant rooms, ancillary storage space and vertical air conditioning ducts, and
- (c) car parking needed to meet any requirements of the council and any internal access to the car parking, and
- (d) space for the loading and unloading of goods.

**ground level** means the level of the site before development is carried out pursuant to this Policy.

**height** in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

**heritage conservation area** means land identified in another environmental planning instrument as an heritage conservation area and includes buildings, works, relics, trees and places situated on or within that land.

**heritage item** means a building, work, relic, tree or place (which may or may not be situated on or within land that is a heritage conservation area) described as a heritage item in an environmental planning instrument.

**heritage significance** means historic, scientific, cultural, social, archaeological, natural or aesthetic significance.

**hostel** means residential accommodation housing older people or people with a disability where cooking and dining, laundering, cleaning and other facilities are provided on a shared basis and where a person having nursing or social work experience or other similar experience provides services.

**housing for older people or people with disabilities** means residential accommodation which is or is intended to be used permanently as housing for the accommodation of older people or people with a disability which may consist of a residential care facility, a hostel or a grouping of 2 or more self-contained dwellings, or a combination of these, but does not include a hospital.

**landscaped area** means that part of the site area which is not occupied by any building and includes so much of that part as is used or to be used for swimming pools or open-air recreation facilities but does not include so much of that part as is used or to be used for driveways, parking areas or drying yards.

**local government or community housing provider** means:

- (a) a local government organisation, or a not for profit organisation, that is a direct provider of housing to tenants receiving government housing subsidies, or
- (b) an organisation approved by the Minister.

**older people** means people aged 55 years or over.

**people with a disability** means people of any age who, as a result of having an intellectual, physical, psychiatric or sensory impairment, either permanently or for an extended period, have substantially limited opportunities to enjoy a full and active life.

## 1998 No 9

State Environmental Planning Policy No 5—Housing For Older People or People with a Disability

Dictionary

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***residential care facility*** means accommodation for older people that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hospital or psychiatric facility.

***self-contained dwelling*** means a dwelling or part of a building, whether attached to another dwelling or not, housing older people or people with a disability, where private facilities for cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part may be provided on a shared basis.

***site analysis*** means the process of identification and analysis of key features of the site and immediate surroundings to assist in understanding how future dwellings will relate to each other and to their locality.

***streetscape*** means the character of a locality (whether it is a street or precinct) defined by the spatial arrangement and visual appearance of built and landscape features when viewed from the street.

***the Act*** means the *Environmental Planning and Assessment Act 1979*.

***wheelchair access***, in relation to any 2 points, means a continuous path of travel between those points which can be negotiated by a person using a wheelchair.