



State Environmental Planning Policy No 53—Metropolitan Residential Development (Amendment No 7)

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* in accordance with the recommendation made by the Minister for Planning.

ANDREW REFSHAUGE, M.P.,
Minister for Planning

State Environmental Planning Policy No 53— Metropolitan Residential Development (Amendment No 7)

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy No 53—Metropolitan Residential Development (Amendment No 7)*.

2 Aims of Policy

This Policy aims to amend *State Environmental Planning Policy No 53—Metropolitan Residential Development*:

- (a) to apply Part 4 of that Policy to the land to which this Policy applies as referred to in clause 3 (1) and so facilitate the erection of multi unit housing on that land, and
- (b) to extend Part 4 of that Policy to include, in addition to development solely for the purpose of multi unit housing, development for the purpose of multi unit housing combined with development for any other purpose, and
- (c) to make the Minister the consent authority for development on the land to which this Policy applies as referred to in clause 3 (1) for the purposes of multi unit housing, multi unit housing combined with development for any other purpose, subdivision, and demolition related to multi unit housing (including demolition of a heritage item), and
- (d) to establish certain standards with respect to the carrying out of any such development, and
- (e) to remove the local government areas of Newcastle and Wyong from the application of Part 2 (Integrated housing development) of that Policy.

3 Land to which Policy applies

- (1) This Policy applies to the following land in the local government area of Ku-ring-gai:
 - (a) the land comprising Nos 2, 4, 8, 10 and 12 Avon Road, and Nos 1, 1A, 3, 5 and 5A Pymble Avenue, Pymble (being the land shown edged heavy black on Sheet 1 of the map supporting this Policy),
 - (b) the land comprising Nos 1A, 1, 5 and 7 Avon Road, No 1 Arilla Road, No 12 Mayfield Avenue and Nos 2–8 Beechworth Road, Pymble (being the land shown edged heavy black on Sheet 3 of the map supporting this Policy),
 - (c) the land comprising Nos 9–25 Tryon Road, Lindfield (being the land shown edged heavy black on Sheet 6 of the map supporting this Policy),
 - (d) the land comprising Nos 23–55A Lindfield Avenue, No 2 Kochia Lane, Lindfield, and other properties in Havilah Lane, Lindfield (being the land shown edged heavy black on Sheet 8 of the map supporting this Policy),
 - (e) the land comprising Nos 1500 and 1502 Pacific Highway, and Nos 2 and 2A Marshall Avenue, Warrawee (being the land shown edged heavy black on Sheet 11 of the map supporting this Policy),
 - (f) the land comprising Nos 4–14 Merriwa Street, and Nos 3–11 McIntyre Street, Gordon (being the land shown edged heavy black on Sheet 13 of the map supporting this Policy).
- (2) In this clause, a reference to the map supporting this Policy is a reference to the map marked “State Environmental Planning Policy No 53—Amendment No 7” prepared by the Department of Planning and a copy of which is deposited in the Sydney office of the Department.
- (3) This Policy also applies to land within the local government areas of Newcastle and Wyong, but only in so far as it removes that land from the application of Part 2 (Integrated housing development) of *State Environmental Planning Policy No 53—Metropolitan Residential Development*.

4 Amendment of State Environmental Planning Policy No 53— Metropolitan Residential Development

State Environmental Planning Policy No 53—Metropolitan Residential Development is amended as set out in Schedule 1.

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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 4)

[1] Clause 3 Aims

Insert “, such as multi unit housing or multi unit housing combined with development for any other purpose” after “housing types” in clause 3 (2) (a).

[2] Clause 3 (2) (a)

Insert “approved by the Minister” after “strategies”.

[3] Clause 5 Relationship to other environmental planning instruments

Insert “, except as provided by clause 1 (3) of Schedule 4” after “heritage item” in clause 5 (3).

[4] Clause 22 Objective

Insert “(including multi unit housing combined with development for any other purpose)” after “multi unit housing”.

[5] Clause 25 Development consent

Omit clause 25 (2). Insert instead:

- (2) Despite the provisions of any other environmental planning instrument, the relevant consent authority in relation to land for the purposes of this Part is:
 - (a) if a provision of Schedule 4 specifies a consent authority in relation to the land, that consent authority, and
 - (b) in any other case, the council.

[6] Clause 42

Insert after clause 41:

42 Determination of certain development applications relating to the Ku-ring-gai local government area

A development application:

- (a) that relates to land referred to in clause 1 of Schedule 4, and

(b) that had not been determined before the commencement of that clause,

is to be determined as if that clause had not been made.

[7] Schedule 2 Integrated housing development

Omit Part A, but not the heading to Part A.

[8] Schedule 4

Omit the Schedule. Insert instead:

Schedule 4 Amendments allowing multi unit housing

(Clauses 23, 24 and 26)

1 Ku-ring-gai sites

- (1) Part 4 of this Policy applies to each of the following sites in the local government area of Ku-ring-gai so as to allow development for the purposes of multi unit housing to be carried out on those sites:
 - (a) site 1—the land comprising Nos 2, 4, 8, 10 and 12 Avon Road, and Nos 1, 1A, 3, 5 and 5A Pymble Avenue, Pymble (being the land shown edged heavy black on Sheet 1 of the Ku-ring-gai Reference Plan),
 - (b) site 2—the land comprising Nos 1A, 1, 5 and 7 Avon Road, No 1 Arilla Road, No 12 Mayfield Avenue and Nos 2–8 Beechworth Road, Pymble (being the land shown edged heavy black on Sheet 3 of the Ku-ring-gai Reference Plan),
 - (c) site 3—the land comprising Nos 9–25 Tryon Road, Lindfield (being the land shown edged heavy black on Sheet 6 of the Ku-ring-gai Reference Plan),
 - (d) site 4—the land comprising Nos 23–55A Lindfield Avenue, No 2 Kochia Lane, Lindfield, and other properties in Havilah Lane, Lindfield (being the land shown edged heavy black on Sheet 8 of the Ku-ring-gai Reference Plan),

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- (e) site 5—the land comprising Nos 1500 and 1502 Pacific Highway, and Nos 2 and 2A Marshall Avenue, Warrawee (being the land shown edged heavy black on Sheet 11 of the Ku-ring-gai Reference Plan),
 - (f) site 6—the land comprising Nos 4–14 Merriwa Street, and Nos 3–11 McIntyre Street, Gordon (being the land shown edged heavy black on Sheet 13 of the Ku-ring-gai Reference Plan).
- (2) Development for the purpose of multi unit housing may be carried out, with development consent, on a site specified in subclause (1), despite the provisions of any other environmental planning instrument applying to the site.
 - (3) The relevant consent authority for all development on the sites specified in subclause (1) for the purpose of multi unit housing, subdivision, or demolition related to multi unit housing (including the demolition of a heritage item) is the Minister.
 - (4) If a development application is made in respect of part of a site specified in subclause (1):
 - (a) the consent authority must take into consideration the effect that the proposed development will, or is reasonably likely to, have on the ability to develop the remainder of the site in the manner described in the Ku-ring-gai Reference Plan or the Ku-ring-gai Sites Report, and
 - (b) the consent authority must not grant development consent to the development application if the consent authority is of the opinion that the granting of consent would, or would be reasonably likely to, have a significantly adverse effect on the ability to develop the remainder of the site in the manner described in the Ku-ring-gai Reference Plan or the Ku-ring-gai Sites Report.
 - (5) Consent must not be granted to a development application for consent to carry out development for multi unit housing for a site specified in subclause (1) unless the Minister has considered the Ku-ring-gai Sites Report.
 - (6) Consent must not be granted to a development application for consent to carry out development for multi unit housing in relation to a site specified in subclause (1) unless the Minister

is satisfied that the proposed development generally conforms to the deemed development standards set out in the sheets of the Ku-ring-gai Reference Plan that relate to the site, subject to subclause (7).

- (7) If it is necessary in order to conserve an item of the environmental heritage or threatened species, population or ecological community, consent may be granted to a development application for multi unit housing in relation to a site specified in subclause (1) if the Minister is satisfied that the proposed development will implement the relevant design principles set out in the Ku-ring-gai Sites Report.
- (8) Development for multi unit housing on site 4 specified in subclause (1) (d) may include development for retail or commercial purposes.
- (9) *State Environmental Planning Policy No 1—Development Standards* applies to and in respect of a deemed development standard in the same way as it applies to and in respect of a development standard, except that clause 7 of that Policy does not apply so as to require the concurrence of the Director-General to the granting of consent to a development application where an objection has been made under clause 6 of that Policy in respect of a deemed development standard.
- (10) In this clause:

deemed development standard means a standard (such as a standard relating to a setback, building envelope or building height) adopted in the Ku-ring-gai Reference Plan that, if it were included as a provision in a local environmental plan, would be a development standard.

development for multi unit housing means development for the purpose of multi unit housing, or development for the purpose of multi unit housing combined with development for any other purpose, and includes, in relation to site 4 specified in subclause (1) (d), development for the purpose of multi unit housing and development for retail or commercial purposes.

Ku-ring-gai Reference Plan means the map comprising 14 sheets marked “State Environmental Planning Policy No 53—Amendment No 7” prepared by the Department of Planning and deposited in the Sydney office of the Department.

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Schedule 1

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Ku-ring-gai Sites Report means the report entitled *Draft development controls and design guidelines—six SEPP 53 sites in Ku-ring-gai* dated October 2002 and prepared by the Department of Planning, as modified by the report entitled *Development controls and design guidelines—six SEPP 53 sites in Ku-ring-gai—Schedule* dated January 2003.

BY AUTHORITY
