

State Environmental Planning Policy No 53—Metropolitan Residential Development (1997 EPI 523)

[1997-523]



New South Wales

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New South Wales

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New South Wales

Part 1 Preliminary

Note—

Introduction. This Policy forms part of the State Government’s strategy to manage urban growth and change in the Greater Metropolitan Area. That area is the focus of economic activity and the largest residential settlement in New South Wales. Management of that area is a matter of State importance due to the implications it has for the social and environmental well being of the State.

This Policy implements the housing principles of the metropolitan strategy for the Greater Metropolitan Region. It does this by promoting more compact cities. The compact cities principle is based on taking up less new land, getting more out of new and existing land and infrastructure (including cost-effective provision arrangements), improving access between jobs, housing and services by locating these activities closer together and providing better transport links, and promoting equity in access opportunities.

1 Name of Policy

This Policy is *State Environmental Planning Policy No 53—Metropolitan Residential Development*.

2 Commencement

This Policy commences on 26 September 1997.

3 Aims

- (1) This Policy aims to encourage the provision of housing in metropolitan areas that will:
 - (a) broaden the choice of building types and locations available in the housing market, and
 - (b) make more efficient use of existing infrastructure and services, and
 - (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and
 - (d) be of good design.

- (2) These aims are to be achieved:
- (a) by establishing planning controls that will provide opportunities for a variety of housing types to be developed in areas the councils of which have not adopted residential development strategies, and
 - (b) by setting out design principles that, if followed, will achieve built form that responds to the characteristics of its site and location, and
 - (c) by encouraging councils to prepare and adopt residential development strategies and supporting local environmental plans and policies that will achieve those aims, and by allowing local government areas to be exempted from the whole or parts of this policy when those strategies and plans are in place.
- (3) In addition, this Policy aims to simplify and streamline certain aspects of the planning system relating to residential development:
- (a) by revising the provisions in a number of State environmental planning instruments to improve their operation, and
 - (b) by restating the revised provisions of those environmental planning instruments in a single policy written in a manner that is easy to understand.

4 Where this Policy applies

This Policy applies to the part of the State consisting of the local government areas described in Schedule 1, except as otherwise provided by this Policy.

Note—

If the Minister agrees with a council's residential strategy and the plans prepared to implement the strategy, this Policy will be amended so that the council will not be subject to it.

5 Relationship to other environmental planning instruments

- (1) This Policy repeals the following environmental planning instruments in their entirety:
- State Environmental Planning Policy No 12—Public Housing (Dwelling-Houses),*
 - State Environmental Planning Policy No 20—Minimum Standards for Residential Flat Development,*
 - State Environmental Planning Policy No 25—Residential Allotment Sizes,*
 - Sydney Regional Environmental Plan No 12—Dual Occupancy.*
- (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, except as provided by subclause (3).
- (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.

8 Suspension of certain covenants etc

- (1) Any agreement, covenant or similar instrument imposing restrictions on the erection of buildings or the use of land, or otherwise affecting the development of land, does not apply to the extent necessary to enable development to be carried out in accordance with this Policy or a consent granted under the Act pursuant to this Policy, except as provided by subclause (2).
- (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 clause, as substituted by [State Environmental Planning Policy No 53—Metropolitan Residential Development \(Amendment No 1\)](#), took effect, the Governor approved this clause under section 28 of the Act.

9 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 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 2 Integrated housing development

10 Objectives

The objectives of this Part are:

- (a) to create opportunities for a group of dwellings on separate small allotments of land

to be planned, designed and assessed as a single development in an urban release area, and

- (b) through the other provisions of this Policy, to ensure that integrated housing development is:
 - (i) located having regard to the environmental sensitivity of the land, and
 - (ii) designed and assessed with a full understanding of the opportunities and constraints of each site, and
 - (iii) designed and assessed having adequate regard for the design principles contained in Part 5.

11 Where this Part applies

- (1) This Part applies to land that is specified or described in Part A of Schedule 2.
- (2) However, this Part does not apply to land that is described in Part B of Schedule 2 (Environmentally sensitive land excepted from Part 2).

12 What this Part allows

This Part allows subdivision of land into five or more allotments and the erection of one dwelling on each allotment created by that subdivision, despite the provisions of any other environmental planning instrument, if the development is carried out in accordance with this Part and Part 5.

13 Development consent

- (1) 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.
- (2) This Part allows consent for subdivision to be granted only if consent is granted at the same time for the erection of a dwelling on each allotment that will be created for the purpose of residential development by the subdivision.

14 Development standards

The following development standards apply to development allowed by this Part:

(a) Allotment size

The average of the areas of the five or more allotments allowed to be created for the purpose of residential development is to be at least 230 square metres.

(b) Floor space ratio

The floor space ratio of each dwelling allowed to be erected is to be 0.5:1 or less.

Part 3 Dual occupancy

15 Objectives

The objectives of this Part are:

- (a) to create opportunities for two dwellings to be developed on a single allotment of land, and
- (b) through the other provisions of this Policy, to ensure that dual occupancy development is:
 - (i) designed and assessed with a full understanding of the opportunities and constraints of each site, and
 - (ii) designed and assessed having adequate regard for the design principles contained in Part 5.

16 Where this Part applies

- (1) This Part applies to all land to which this Policy applies that is within a residential zone under another environmental planning instrument.
- (2) However, this Part does not apply to land within an area described in Schedule 3 (Areas excepted from Part 3 (Dual occupancy)).

17 What this Part allows

This Part allows development that results in two dwellings being located on the one allotment of land if another environmental planning instrument permits a dwelling-house to be erected on that allotment and the development is carried out in accordance with this Part and Part 5.

18 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.

19 Development standards

- (1) The following development standards apply for development allowed by this Part:

- (a) **Allotment size**

The allotment is to have an area of:

- (i) 400 square metres or more where the two dwellings are attached, or
 - (ii) 600 square metres or more where the two dwellings are detached,

(b) Floor space ratio

The building or buildings on the allotment after the development is carried out are to have a floor space ratio:

(i) of 0.5:1 or less, or

(ii) equal to or less than the floor space ratio of any dwelling that was on the allotment before the development was carried out, if that ratio exceeds 0.5:1.

(2) However, if another environmental planning instrument provides development standards that allow higher density development on the allotment concerned, the standards that allow higher density development apply.

20 Car parking requirements consent authority may impose

(1) A consent authority cannot, in granting consent for development allowed by this Part, require more than:

(a) one car parking space for each dwelling with a gross floor area of 150 square metres or less, or

(b) two car parking spaces for each dwelling with a gross floor area of more than 150 square metres.

(2) This clause does not prevent a development from having a greater number of car parking spaces than the consent authority can require.

21 Subdivision not permitted by this Part

(1) Nothing in this Policy permits a subdivision of an allotment on which there are two dwellings as a result of development allowed by this Part.

(2) However, nothing in this Policy prevents such a subdivision if it is permitted by another environmental planning instrument.

Part 4 Targeted sites for multi unit housing

22 Objective

The objective of this Part is to provide an opportunity to stimulate redevelopment of specific sites and localities that are suitable for multi unit housing in order:

(a) to increase housing supply and choices, and

(b) to promote social and economic development, by allowing development of sites and localities close to transport, employment opportunities and other relevant services,

where local environmental planning controls do not satisfactorily deal with redevelopment of that kind.

23 Where this Part applies

This Part does not apply to land to which this Policy applies unless the land is described in Schedule 4.

24 What this Part does

This Part alters the local planning controls applying to land described in Schedule 4 in the manner set out in that Schedule.

25 Development consent

- (1) 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.
- (2) The relevant consent authority for the purposes of this Part is the council, despite the provisions of any other environmental planning instrument.

26 Development standards

Development standards in Schedule 4 apply despite any development standards in the local environmental planning instrument altered by that Schedule.

Part 5 Design requirements

27 Objective

The objective of this Part is to establish a process and criteria that encourage good design in residential development that may be used in the design and assessment of development allowed by this Policy.

28 Development to which this Part applies

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

29 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.

30 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.

31 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 5 (Site analysis), and
 - (b) be accompanied by a written statement explaining how the design of the proposed development has regard to the site analysis.

32 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:

(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.

(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 6 Transitional provisions

33 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.

34 Dual occupancy applications lodged before 19 May 1995

Nothing in this Policy affects clause 9 of *State Environmental Planning Policy No 25—Residential Allotment Sizes and Dual Occupancy Subdivision (Amendment No 4)* and that clause continues to have effect as if *State Environmental Planning Policy No 25—Residential Allotment Sizes* had not been repealed.

35 Development applications lodged not later than 31 March 1998 in respect of certain areas

- (1) Despite this Policy, a development application that is lodged not later than 31 March 1998 in relation to land within one of the following local government areas, namely:

City of Canterbury

Concord

City of Penrith

City of Randwick

City of Rockdale

Waverley

may be dealt with and determined in accordance with the instruments referred to in clause 5 (1) rather than in accordance with this Policy as if those instruments had not been repealed by this Policy but continued in force.

- (2) This clause applies to a development application made before, on or after the date on which this clause took effect.

36 Certain development applications relating to land to which SREP No 17—Kurnell Peninsula applies

A development application:

- (a) that relates to land to which *Sydney Regional Environmental Plan No 17—Kurnell Peninsula* applies, and
- (b) that was lodged before the date of commencement of *State Environmental Planning Policy No 53—Metropolitan Residential Development (Amendment No 1)*, and
- (c) that had not been finally determined as at that date,

is to be determined as if Schedule 1 [5] to *State Environmental Planning Policy No 53—Metropolitan Residential Development (Amendment No 1)* had not been made.

37 Certain development applications relating to land within Holroyd

A development application in relation to land within the Holroyd area that was made but not finally determined before the date on which this clause took effect is to be dealt with and determined in accordance with the provisions of this Policy.

38 Determination of certain development applications

- (1) Despite this Policy, a development application that is made in respect of land within an area specified in Column 1 of the Table to this clause not later than the date specified opposite the area in Column 2 of the Table may be dealt with and determined in accordance with the provisions of an environmental planning instrument specified opposite the area in Column 3 of the Table rather than in accordance with this Policy as if those provisions had not been repealed by this Policy but continued in force.
- (2) This clause applies, except in relation to land within the City of Blue Mountains, to a development application made before, on or after the date on which this clause took

effect.

- (3) This clause applies, in relation to land within the City of Blue Mountains, to a development application made not later than 30 October 1997 but not finally determined before the date on which this clause took effect.
- (4) In this clause, **SREP 12** means *Sydney Regional Environmental Plan No 12—Dual Occupancy* as in force immediately before its repeal.

Table

Column 1	Column 2	Column 3
Area	Date	Provisions of environmental planning instruments
City of Bankstown	30 September 1998	The environmental planning instruments repealed by clause 5 (1)
Baulkham Hills	30 September 1998	SREP 12
City of Blue Mountains	30 October 1997	SREP 12
Camden	30 September 1998	SREP 12
City of Campbelltown	30 March 1999	SREP 12
Kogarah	30 September 1998	SREP 12, except clause 8 (c)
Marrickville	30 September 1998	SREP 12
City of Parramatta	30 September 1998	SREP 12

39 Determination of certain development applications relating to the Pittwater and Sutherland local government areas

A development application:

- (a) that relates to land within the Pittwater local government area or the Sutherland local government area, being land to which this Policy applied immediately before the date on which it was amended by [State Environmental Planning Policy No 53—Metropolitan Residential Development \(Amendment No 3\)](#), and

- (b) that had not been finally determined before that date,

is to be determined as if this Policy had not been so amended.

40 Determination of certain development applications relating to the Newcastle, Strathfield, Warringah and Woollahra local government areas

A development application:

- (a) that relates to land within the Newcastle, Strathfield, Warringah or Woollahra local government area, being land to which this Policy applied immediately before the date on which it was amended by *State Environmental Planning Policy No 53—Metropolitan Residential Development (Amendment No 4)*, and
 - (b) that had not been finally determined before that date,
- is to be determined as if this Policy has not been so amended.

41 Determination of certain development applications relating to the Drummoyne, Hunters Hill and Lane Cove local government areas

A development application:

- (a) that was lodged on or after 26 September 1997 (the day on which this Policy commenced) and before the commencement of *State Environmental Planning Policy No 53—Metropolitan Residential Development (Amendment No 5)*, and
- (b) that relates to land within the Drummoyne, Hunters Hill or Lane Cove local government area, being land to which this Policy applied immediately before the date on which it was amended by *State Environmental Planning Policy No 53—Metropolitan Residential Development (Amendment No 5)*, and
- (c) that had not been finally determined before the date on which this Policy was so amended,

is to be determined as if this Policy had not been so amended.

Schedule 1 Local government areas

(Clause 4)

Note—

Schedule 1 lists the local government areas to which this Policy applies.

Burwood
Ku-ring-gai
Wyong

Schedule 2 Integrated housing development

(Clause 11)

Part A Land to which Part 2 applies

Newcastle

Land that is within a residential zone under any of the following environmental planning instruments:

Newcastle Local Environmental Plan 1987 (Amendment No 49)

Newcastle Local Environmental Plan 1987 (Amendment No 50)

Newcastle Local Environmental Plan 1987 (Amendment No 70)

Newcastle Local Environmental Plan 1987 (Amendment No 72)

Newcastle Local Environmental Plan 1987 (Amendment No 93)

Wyong

Land within Zone No 2 (b) under [Wyong Local Environmental Plan 1991](#)

Part B Environmentally sensitive land excepted from Part 2

Land identified in an environmental planning instrument by the following descriptions or by like descriptions:

- coastal protection,
- conservation (but not heritage conservation areas identified in that or another environmental planning instrument),
- critical habitat,
- environmental protection,
- rural environmental protection,
- escarpment,
- floodway,
- natural hazard,
- scenic,
- water catchment,
- natural wetland,
- rural residential.

Schedule 3 Areas excepted from Part 3 (Dual occupancy)

(Clause 16 (2))

Note—

This Schedule is blank until material is inserted in accordance with clause 16 (2).

Schedule 4 Amendments allowing multi unit housing

(Clauses 23, 24 and 26)

Note—

No sites or localities have yet been identified for multi unit housing to be allowed by modifications under Part 4 to environmental planning instruments.

Sites or localities will be affected only in local government areas that do not prepare suitable residential development strategies approved by the Minister which achieve the relevant aims of this Policy. Sites and localities are to be included in this Schedule. However, it is intended that:

- (a) a site or locality included will represent a significant opportunity to increase housing choice in the local government area, and
- (b) any such site or locality will have good access to public transport (especially rail or major bus routes) or be located close to employment opportunities.

Before a site or locality is included, a planning report making an assessment of its suitability for inclusion will be prepared and submitted to the Minister by the Director-General of the Department of Urban Affairs and Planning.

Development standards

The following development standards apply to development allowed by Part 4:

(a) **Housing choice**

Development must increase the housing choice in the local government area or must assist in achieving a more compact city form.

(b) **Location and accessibility**

Development must have good access to public transport (especially rail or major bus routes) or must be located close to a commercial centre.

Schedule 5 Site analysis

(Clause 31 (2) (a))

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—the other consent authority.

critical habitat means 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.

dwelling-house means a building containing one, but not more than one, dwelling.

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 carport 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.

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

multi unit housing means a development resulting in two or more dwellings and includes dual occupancies, terraces houses, villas, townhouses, cluster housing, integrated housing, and residential flat buildings.

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 be 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](#).