

State Environmental Planning Policy No 9—Group Homes (1983 EPI 31)

[1983-31]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**

Gazette No 201 of 17.12.2004, p 9590 (not commenced — to commence on 28.2.2005)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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State Environmental Planning Policy No 9—Group Homes (1983 EPI 31)



New South Wales

1 Name of Policy

This State Environmental Planning Policy may be cited as *State Environmental Planning Policy No 9—Group Homes*.

2 Definitions

(1) In this Policy, except in so far as the context or subject-matter otherwise indicates or requires:

council, in relation to the carrying out of development, means the council of the area in which the development is to be carried out.

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 1 but not more than 1 dwelling.

group home means a dwelling that is a permanent group home or a transitional group home.

permanent group home means a dwelling:

- (a) used to provide a household environment for disabled persons or socially disadvantaged persons, whether those persons are related or not, and
- (b) occupied by the persons referred to in paragraph (a) as a single household, with or without paid or unpaid supervision or care and either with or without payment for board and lodging being required,

but does not include a building to which *State Environmental Planning Policy (Seniors Living) 2004* applies or a transitional group home.

residential flat building means a building containing 2 or more dwellings.

transitional group home means a dwelling:

- (a) used to provide temporary accommodation, for the purposes of relief or rehabilitation, for disabled persons or socially disadvantaged persons, whether those persons are related or not, and
- (b) occupied by the persons referred to in paragraph (a) as a single household, either with or without paid or unpaid supervision or care and either with or without payment for board and lodging being required,

but does not include a building to which *State Environmental Planning Policy (Seniors Living) 2004* applies.

(2) In this Policy:

- (a) a reference to disabled persons is a reference to persons of any age who as a result of having a mental, physical or sensory impairment, either permanently or for an extended period, have substantially limited opportunities to enjoy full and active lives, and
- (b) a reference to socially disadvantaged persons includes a reference to:
 - (i) persons disadvantaged for reasons of alcohol or other drug dependence, extreme poverty, psychological disorder, delinquency or other disadvantage, and
 - (ii) persons who, for reasons of domestic violence or upheaval, require protection.

3 Aims, objectives etc

The aim of this Policy is to facilitate the establishment of:

- (a) permanent group homes in which disabled persons or socially disadvantaged persons may lead as normal a life as possible by living permanently in an ordinary residential household environment, instead of in an institutional environment, and
- (b) transitional group homes which provide temporary accommodation for disabled persons or socially disadvantaged persons in an ordinary residential household environment instead of in an institutional environment for purposes such as alcohol or drug rehabilitation, “half-way” rehabilitation for persons formerly living in institutions and refuges for men, women or young people.

4 Application of Policy

This Policy shall apply to the State but does not apply to land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies.

5 Inconsistency between instruments

Subject to section 74 (1) of the Act, in the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy,

this Policy shall prevail to the extent of the inconsistency.

6 Interpretation of planning instruments in relation to group homes

- (1) In any environmental planning instrument (whether made before or after this Policy), any reference, whether express or implied, to:
 - (a) a dwelling-house shall be deemed to include a reference to a dwelling-house that is a group home,
 - (b) a residential flat building, or a residential flat building of a particular class, shall be deemed to include a reference to a residential flat building, or a residential flat building of that class, containing a dwelling that is a group home, and
 - (c) a boarding-house, hostel, hospital, home, housing for aged or disabled persons or an institution shall be deemed not to include a reference to a group home.
- (2) Nothing in subclause (1) (c) shall prevent the carrying out of development for the purposes of a group home either with or without development consent if that development could, but for subclause (1), be lawfully carried out under any other environmental planning instrument either with or without development consent.

7 Where development consent for group homes is required

- (1) Notwithstanding clause 6, development for the purposes of:
 - (a) a permanent group home that:
 - (i) contains more than 5 bedrooms, or
 - (ii) is occupied at the same time by more residents (including resident staff, if any) than is equal to the number calculated by multiplying the number of bedrooms in that home by 2, or
 - (b) a transitional group home,shall not be carried out without the consent of the council.
- (2) The council shall not refuse its consent to the carrying out of development for any of the purposes referred to in subclause (1) unless it has made an assessment of the community need for the group home the subject of the application for consent.
- (3) Nothing in subclause (1) requires the consent of the council to the carrying out of development, by the Housing Commission of New South Wales or another person jointly with that Commission, for the purposes of a transitional group home that:
 - (a) contains 5 or less bedrooms, and
 - (b) is occupied at the same time by not more residents (including resident staff, if any) than is equal to the number calculated by multiplying the number of

bedrooms in that home by 2.

8 Development applications for certain permanent group homes

(1) This clause applies to a permanent group home that:

(a) contains 5 or less bedrooms, and

(b) is occupied at the same time by not more residents (including resident staff, if any) than is equal to the number calculated by multiplying the number of bedrooms in that home by 2.

(2) Where land is lawfully used for the purposes of a dwelling or a building has been lawfully erected for that purpose, the dwelling may be used for the purposes of a permanent group home to which this clause applies without the necessity for development consent being obtained therefor.

(3) Where, by virtue of clause 6, development consent is required to erect or use a permanent group home to which this clause applies, the consent authority shall not:

(a) refuse that development consent, or

(b) impose a condition on the grant of that development consent,

by reason only that the dwelling which is the subject of the application is intended to be used as a group home.

9 Development by the Crown or a public authority

The consent authority in relation to a development application made to it by the Crown or a public authority or by another person jointly with the Crown or a public authority for its consent to carry out development for the purposes of a group home shall not:

(a) refuse to grant its consent to the application, or

(b) attach any condition to its consent to the application,

except with the approval of the Minister.