

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

[1997-523]



New South Wales

## Status Information

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### Authorisation

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



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, such as multi unit housing or multi unit housing combined with development for any other purpose to be developed in areas the councils of which have not adopted residential development strategies approved by the Minister, 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**

- (1) 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.

- (2) However, this Policy does not apply to the land within the area of Ku-ring-gai shown edged heavy red on the map marked "*Ku-ring-gai Local Environmental Plan No 194—Zoning Map*" held in the office of Ku-ring-gai Council.

#### **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, except as provided by clause 1 (3) of Schedule 4.
- (4) *Lane Cove Local Environmental Plan 1987* is amended as set out in Schedule 6.

## **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 the land is within a zone which, under another environmental planning instrument, permits the erection of dwelling houses 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 (including multi unit housing combined with development for any other purpose) 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) 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.

### **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.

#### **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.

#### **43 Determination of certain development applications—effect of SEPP 53 (Amdt 8)**

Despite clause 33, this clause and the amendments made to this Policy by *State Environmental Planning Policy No 53—Metropolitan Residential Development (Amendment No 8)* extend to development applications, and to the determination of development applications, made, but not finally determined, before the commencement of *State Environmental Planning Policy No 53—Metropolitan Residential Development (Amendment No 9)*.

#### **44 Determination of certain development applications—effect of SEPP 53 (Amdt 10)**

Despite clause 33, this clause and the amendments made to this Policy by *State Environmental Planning Policy No 53—Metropolitan Residential Development (Amendment No 10)* extend to development applications, and to the determination of development applications, made, but not finally determined, before the commencement of *State Environmental Planning Policy No 53—Metropolitan Residential Development (Amendment No 10)*.

### **Schedule 1 Local government areas**

(Clause 4)

#### **Note—**

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

Ku-ring-gai

### **Schedule 2 Integrated housing development**

(Clause 11)

#### **Part A Land to which Part 2 applies**

#### **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))

Land that is:

- (a) identified on a bush fire prone land map certified under section 146 of the Act as “Bush fire prone land—vegetation category 1”, or
- (b) shown cross-hatched on the map marked “*State Environmental Planning Policy No 5—Housing for Older People or People with a Disability (Amendment No 5) Bush Fire Evacuation Risk Map*” deposited within the Department of Infrastructure, Planning and Natural Resources.

### **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),
  - (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.

**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.

## 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

## Schedule 6 Amendment of **Lane Cove Local Environmental Plan 1987**

(Clause 5 (4))

### Clause 19I

Insert after clause 19H:

#### **19I Development of certain land—Nos 1-16 Duntroon Avenue, St Leonards**

- (1) This clause applies to land known as 1-16 Duntroon Avenue, St Leonards, being lots 1 and 2, DP 567316, and lots 3-16, DP 7650 (the **subject land**).
- (2) Despite the provisions of this or any other environmental planning instrument applying to the subject land, development for the purpose of residential flat buildings may be carried out, with development consent, on the subject land, if the development is the subject of a development application that relates to the whole of the subject land.
- (3) The development standards set out in subclauses (5)-(10) (the **special development standards**), apply to the erection of residential flat buildings on the subject land.
- (4) If, in relation to the land to which this clause applies, a special development standard differs in any respect from a development standard that deals with the



same subject-matter and is contained elsewhere in this plan (**a local development standard**), the special development standard replaces the local development standard and the local development standard ceases to apply to the land to which this clause applies.

- (5) The following provisions apply generally to any residential flat building erected on the subject land:
- (a) the building must comply with the dimensions, building envelopes, building alignments and maximum building heights set out in the Duntroon Avenue Reference Plan,
  - (b) the building may not exceed 55 metres in length (measured along the side facing Duntroon Avenue),
  - (c) the building may not have a depth exceeding 20 metres (measured at right angles to the side comprising its primary facade),
  - (d) the dwellings in the building must achieve an average energy rating of at least 4 stars, and each dwelling must achieve an individual energy rating of at least 3.5 stars, under the Nationwide House Energy Rating Scheme established under the auspices of the Australian and New Zealand Minerals and Energy Council,
  - (e) at least one tenth of the dwellings in the building must have 3 bedrooms or more,
  - (f) the ratio between:
    - (i) the total floor area of all buildings erected or proposed to be erected on the subject land, and
    - (ii) the area of the subject land,must not exceed 2.33:1.
- (6) Subclause (5) does not prevent minor articulation features (such as balconies, corners of buildings, window structures, wall embellishments and parts of habitable and non-habitable rooms that are designed to enhance the architectural appeal of the building) from extending up to 0.6 metres beyond any building envelope, alignment or dimension established for residential flat buildings on the subject land, either by this clause or by the Duntroon Avenue Reference Plan.
- (7) In relation to the dwellings in any residential flat building erected on the subject land:
- (a) ceiling heights within habitable rooms must be at least 2.7 metres,

- (b) no window of a habitable room in any dwelling may be situated:
  - (i) closer than 12 metres to any window of a habitable room in any other dwelling, or
  - (ii) closer than 9 metres to any window of a non-habitable room in any other dwelling,if the 2 windows face each other,
- (c) each dwelling must have at least 10 cubic metres of storage space, excluding kitchen and bathroom cupboards and built-in or walk-in wardrobes in bedrooms,
- (d) each balcony to which access is gained from a habitable room (other than a bedroom):
  - (i) must have a width (measured along the face of the building) of at least 2.5 metres, and
  - (ii) must have an area of at least 8 square metres.
- (8) In relation to the outdoor areas surrounding the residential flat buildings erected on the subject land:
  - (a) landscaping must be provided in the areas indicated for that purpose in the Duntroon Avenue Reference Plan, and
  - (b) no podium or boundary wall fronting Duntroon Avenue may have a height exceeding 1.2 metres above the level of the adjacent footpath.
- (9) In relation to car and bicycle parking facilities for the residential flat buildings erected on the subject land:
  - (a) the underground car park associated with those buildings must not extend beyond the area allowed for that purpose in the Duntroon Avenue Reference Plan,
  - (b) subject to paragraph (d), the number of car parking spaces (other than visitor car parking spaces) must not exceed the number calculated by allowing:
    - (i) one space for each dwelling having one or two bedrooms only, and
    - (ii) 1.5 spaces for each dwelling having more than two bedrooms,
  - (c) subject to paragraph (d), the number of visitor car parking spaces must be at least one tenth, but must not exceed one fifth, of the total number of dwellings,

- (d) the number of car parking spaces (including visitor car parking spaces) must not exceed 280,
  - (e) the number of bicycle parking spaces (other than visitor bicycle parking spaces) must be at least one third of the total number of dwellings,
  - (f) the number of visitor bicycle parking spaces must be at least one tenth of the number of dwellings.
- (10) Residential flat buildings erected on the subject land should, where practicable, consider the acoustic privacy of neighbourhoods in the vicinity and residents by:
- (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and
  - (b) ensuring acceptable noise levels in internal living and sleeping areas of new dwellings.

**Note—**

Australian/New Zealand Standard AS/NZS 2107:2000, *Acoustics—Recommended design sound levels and reverberation times for building interiors* and Australian Standard AS 3671-1989 *Acoustics—Road traffic noise intrusion—Building siting and construction* should be referred to in establishing acceptable noise levels.

- (11) Nothing in this clause limits the operation of:

- (a) *State Environmental Planning Policy No 1—Development Standards*, or
- (b) *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*,

with respect to the erection of residential flat buildings on the subject land and, in the application of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*, clause 30 (2) (c) of that Policy is taken to refer to the publication *Residential Flat Design Code (Tools for improving the design of residential flat buildings)* (Department of Planning 2002) instead of to the publication *Better Urban Living Guidelines for Urban Housing in NSW* (Department of Urban Affairs and Planning and NSW Government Architect).

- (12) In this clause:

**Duntroon Avenue Reference Plan** means the plan entitled *State Environmental Planning Policy 53 (Amendment No 6)*, prepared by the Department of Planning and dated October 2002, a copy of which is deposited in the Sydney Office of the Department of Planning.

**floor area** of a building means, despite clause 6 (1), the sum of the areas of each floor of the building where the area of each floor is taken to be the area

within the internal face of the external closing walls or external windows as measured at a height of 1 400 millimetres above each floor level, but excluding the following areas:

- (a) the area of main building entrances and associated foyers and lobbies,
- (b) common vertical circulation (that is, stairs, stairwells, lifts, lift wells, landings between flights of stairs on different floors or levels, but not lift lobbies on floors above the ground floor),
- (c) underground storage areas, vehicular access and service areas and car parking areas,
- (d) plant rooms, and vertical mechanical services and vertical ducting,
- (e) balconies, including those enclosed by operable screening devices,
- (f) void space above double height spaces.

**habitable room** has the same meaning as it has in the *Building Code of Australia*.

**residential flat building** means, despite clause 5 (1), a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),

but does not include a Class 1a building or a Class 1b building under the *Building Code of Australia*.

**Note—**

Class 1a and Class 1b buildings are commonly referred to as **town houses** or **villas** where the dwelling units are side by side, rather than on top of each other.

## 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*.