

1992—No. 465

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
STATE ENVIRONMENTAL PLANNING POLICY No. 25—
RESIDENTIAL ALLOTMENT SIZES AND DUAL
OCCUPANCY SUBDIVISION (AMENDMENT No. 3)

NEW SOUTH WALES



[Published in Gazette No. 102 of 21 August 1992]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Environmental Planning and Assessment Act 1979, has been pleased to make the State Environmental Planning Policy set forth hereunder in accordance with the recommendation made by the Minister for Planning. (S91/06800/003)

ROBERT WEBSTER
Minister for Planning.

Sydney, 14 August, 1992.

Citation

1. This Policy may be cited as State Environmental Planning Policy No. 25—Residential Allotment Sizes and Dual Occupancy Subdivision (Amendment No. 3).

Aims, objectives etc.

2. (1) The aim of this Policy is to introduce further measures relating to the subdivision of dual occupancy development so as to more effectively integrate this form of development with surrounding land uses.

(2) The objectives of this Policy are:

- (a) to prohibit the further subdivision of a dual occupancy development (including any land on which such development is located) under Part 3 of State Environmental Planning Policy No. 25; and

1992—No. 465

- (b) to enable councils to impose additional car parking requirements on dual occupancy developments if any dwelling or dwelling-house in that development has an area of 125 square metres or more (except in the case of public housing); and
- (c) to require development consent for the erection of a dwelling or dwelling-house on an allotment created by a subdivision under Part 3 of State Environmental Planning Policy No. 25.

Land to which this Policy applies

- 3. This Policy applies to the State.

Relationship to other environmental planning instruments

4. (1) This Policy amends State Environmental Planning Policy No. 25—Residential Allotment Sizes and Dual Occupancy Subdivision in the manner set out in clause 5.

(2) This Policy amends Sydney Regional Environmental Plan No. 12—Dual Occupancy in the manner set out in clause 6.

Amendment of State Environmental Planning Policy No. 25

5. State Environmental Planning Policy No. 25—Residential Allotment Sizes and Dual Occupancy Subdivision is amended:

- (a) by inserting at the end of clause 11 the following subclause:
 - (2) This clause has effect subject to Part 4.
- (b) by omitting clause 17 and by inserting instead the following clause:

Car parking requirements

17. (1) In granting consent to an application for consent to a dual occupancy development, the Council may require the provision of:

- (a) 1 (but not more than 1) car parking space per dwelling if the gross floor area of the proposed dwelling is less than 125 square metres; and
- (b) 2 (but not more than 2) car parking spaces per dwelling if the gross floor area of the proposed dwelling is 125 square metres or more.

This subclause has effect despite any other environmental planning instrument but is subject to subclause (2).

(2) In granting consent to an application for consent to a dual occupancy development which is for the purposes of public housing, the Council must not require the provision of more than 1 car parking space per dwelling.

(3) For the purposes of this clause, “**gross floor area**” means the sum of the areas of each floor of a dwelling or dwelling-house 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, awnings or similar devices and any elements, projections or works outside the general lines of the outer face of the external wall; and
- (b) garages and carports.
- (c) by inserting after clause 20 the following Part:

**PART 4—SUBSEQUENT DEVELOPMENT OF LAND
SUBDIVIDED IN ACCORDANCE WITH PART 3**

Land to which Part applies

21. This Part applies to land that has been subdivided in accordance with Part 3.

Prohibition on further subdivision

22. An allotment of land created by a subdivision in accordance with Part 3 or a building erected on such an allotment may not be subdivided in accordance with that Part.

Further residential development after subdivision requires Council consent

23. (1) A person may, but only with the consent of the Council, carry out development (other than subdivision) for the purposes of a dwelling or dwelling-house on land to which this Part applies.

(2) The requirement for consent in subclause (1) applies despite any other environmental planning instrument.

(3) In determining whether to grant consent to development referred to in subclause (1), the Council must consider the proposed development having regard to the matters referred to in clause 16 as if that development were development to which that clause applies.

Car parking requirements

24. (1) In granting a consent referred to in clause 23, the Council may require the provision of:

- (a) 1 (but not more than 1) car parking space per dwelling if the gross floor area of the proposed dwelling is less than 125 square metres; and
- (b) 2 (but not more than 2) car parking spaces per dwelling if the gross floor area of the proposed dwelling is 125 square metres or more.

This subclause has effect despite any other environmental planning instrument but is subject to subclause (2).

(2) In granting consent to an application for consent to carry out development which is for the purposes of public housing, the Council must not require the provision of more than 1 car parking space per dwelling.

(3) For the purposes of this clause, “**gross floor area**” means the sum of the areas of each floor of a dwelling or dwelling-house 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, awnings or similar devices and any elements, projections or works outside the general lines of the outer face of the external wall; and
- b) garages and carports.

EPI restrictions as to dimensions and road frontage

25. A provision of an environmental planning instrument does not operate so as to prevent the Council from granting a consent referred to in clause 23 (or a person from carrying out development in accordance with that consent) merely because the allotment on which it is proposed to carry out the development concerned fails to comply with the requirements of the provision with respect to road frontage or with respect to the dimensions of an allotment.

Setbacks etc.

26. A provision of an environmental planning instrument relating to setbacks from roads or side boundaries or to real building lines does not operate so as to prevent the Council from granting a consent referred to in clause 23 (or a person from carrying out development in accordance with that consent).

Suspension of certain provisions, covenants etc.

27. (1) For the purposes of enabling development referred to in clause 23 to be carried out in accordance with this Part or with a consent granted under the Act:

- (a) any agreement, covenant or instrument imposing restrictions as to the erection of a dwelling-house or dwelling on an allotment of land, as to the use of land for that purpose or as to the size of a dwelling-house or dwelling; and
- (b) clauses 11.2 (1), 11.2 (2), 11.3 (1) and 11.10 (1), (2), (3) of Ordinance 70 under the Local Government Act 1919,

to the extent necessary to serve that purpose, do not apply to that development.

(2) Pursuant to section 28 of the Act, before the making of subclause (1):

- (a) the Governor approved of the subclause; and
- (b) the Minister for the time being administering Ordinance 70 under the Local Government Act 1919 concurred in writing in the recommendation for the approval by the Governor of subclause (1) (b).

Amendment of Sydney Regional Environmental Plan No. 12

6. Sydney Regional Environmental Plan No. 12—Dual Occupancy is amended by omitting clause 14 and by inserting instead the following clause:

Car parking

14. (1) In granting consent to an application made in accordance with this plan, the council may require the provision of:

- (a) 1 (but not more than 1) car parking space per dwelling if the gross floor area of the proposed dwelling is less than 125 square metres; and
- (b) 2 (but not more than 2) car parking spaces per dwelling if the gross floor area of the proposed dwelling is 125 square metres or more.

This subclause is subject to subclause (2).

(2) In granting consent to an application made in accordance with this plan for consent to the carrying out of development which is for the purposes of public housing, the council must not require the provision of more than 1 car parking space per dwelling.

(3) For the purposes of this clause, “**gross floor area**” means the sum of the areas of each floor of a dwelling or dwelling-house 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, awnings or similar devices and any elements, projections or works outside the general lines of the outer face of the external wall; and
 - (b) garages and carports.
-