

INTERIM DEVELOPMENT ORDER NO 78

Published in Government Gazette No 86 of 20th June 1980

(As amended to 11th September 1992)

LOCAL GOVERNMENT ACT, 1919**SUSPENSION OF THE PROVISIONS OF THE KU-RING-GAI PLANNING SCHEME IN RESPECT
OF CERTAIN LAND WITHIN THE MUNICIPALITY OF KU-RING-GAI AND
NOTIFICATION OF INTERIM DEVELOPMENT ORDER NO 78 - KU-RING-GAI**

IN pursuance of Section 342Y of the Local Government Act 1919, I, the Minister for Planning and Environment, having considered a report furnished by the New South Wales Planning and Environment Commission, do hereby notify that the provisions of the Ku-ring-gai Planning Scheme are suspended as respects such part of the land to which such scheme applies as is described in Schedule "A" and do by this my notification make an interim development order as set out in Schedule "B". (78-1740)

ERIC BEDFORD

Minister for Planning and Environment

Sydney, 20th June 1980

SCHEDULE "A"

All those pieces or parcels of land situate in the Municipality of Ku-ring-gai in the vicinity of Treatts Road, Wolseley Road and Eleham Road, Lindfield as shown by heavy black edging on plan catalogued number 245:4012 in the office of the New South Wales Planning and Environment Commission.

SCHEDULE "B"**INTERIM DEVELOPMENT ORDER NO 78 - KU-RING-GAI**

1. This Order may be cited as "Interim Development Order No 78 - Municipality of Ku-ring-gai".
2. This order applies to all those pieces or parcels of land situate in the Municipality of Ku-ring-gai in the vicinity of Treatts Road, Wolseley Road and Eleham Road, Lindfield as shown by heavy black edging on plan catalogued number 245:4012 in the office of the New South Wales Planning and Environment Commission.

*Miscellaneous Acts (Planning) Repeal and Amendment Act 1979 - Order
Reference to Clauses 3, 4, 5 & 8 omitted
vide Government Gazette No 139 of 26th September 1980*

3. (1) The provisions of clause 2 contained in the set of standard or model provisions adopted under Section 342U (3) of the Act and published in Government Gazette No 88 of 17th July 1970, are adopted, by reference, for the purposes of this Order.

(2) In this Order -

"advertising structure" has the meaning ascribed to it in Ordinance No 55 under the Act but does not include "temporary advertising structure" or "advertising structure for the purpose only of displaying a commercial sign" within the meaning of that Ordinance;

*New Definition added by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 1 vide Government Gazette No 99 of 6th October 1989*

"alter", in relation to a heritage item or to a building or work within a conservation area, means -

- (a) to make structural changes to the outside of the heritage item, building or work; or
- (b) to make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work, including the painting of unpainted surfaces, plastering, or other decoration of the outside of the heritage item, building or work, but not including the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work.

*New Definition added by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 1 vide Government Gazette No 99 of 6th October 1989*

"conservation area" means an area of heritage significance being the land shown edged with a heavy black broken line and marked "Conservation Area" on the map marked "Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1" deposited in the office of the Council.

"council" means the Council of the Municipality of Ku-ring-gai;

New Definition added by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1 vide Government Gazette No 99 of 6th October 1989

"demolition", in relation to a heritage item or to a building or work within a conservation area, means the damaging, defacing, destruction, pulling down or removal of the heritage item, building or work, in whole or in part.

New Definition added by Local Environmental Plan No 72 vide Government Gazette No 64 of 26th May 1989

"dual occupancy building" means development that may be carried out, with the consent of the Council, under clause 8 of Sydney Regional Environmental Plan No 12 - Dual Occupancy.

"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 or group of buildings containing one but not more than one dwelling;

New Definition added by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1 vide Government Gazette No 99 of 6th October 1989

Definition Omitted and New Definition added by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 2 vide Government Gazette No 37 of 1st March 1991

"heritage item" means a building, work, relic, tree or place of heritage significance to the Municipality of Ku-ring-gai -

- (a) situated on land shown edged heavy black on the Heritage Map (other than land shown stippled on that map); or
- (b) described in Schedule 1.

New Definition added by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 2 vide Government Gazette No 37 of 1st March 1991

"Heritage Map" means the map marked "Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1" deposited in the office of the Council.

*New Definition added by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 1 vide Government Gazette No 99 of 6th October 1989*

"heritage significance" means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.

"floor" means any separate level within a building;

"public utility undertaking" means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf, harbour or river undertakings;
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking shall be construed as including a reference to a council, county council, Government Department, corporation, firm or authority carrying on the undertaking;

*New Definition added by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 1 vide Government Gazette No 99 of 6th October 1989*

"relic" means any deposit, object or material evidence relating to the settlement (including Aboriginal habitation) of the area of the Municipality of Ku-ring-gai which is 50 or more years old.

"storey" means any floor containing any habitable room or rooms or containing any room or rooms occupied or used or so constructed, designed or adapted as to be capable of being occupied or used as a shop, office or factory;

"the Act" means the Local Government Act 1919;

"utility installation" means a building or work used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

4. Subject to clauses 5 and 7, interim development may be carried out -

- (a) without the consent of the council under this order for the purpose of a dwelling-house;
- (b) with the consent of the council under this order for the purposes of open space, roads or utility installations (other than gas holders and generating works).

5. (1) In this clause, "appointed day" means the day upon which the Ku-ring-gai Planning Scheme Ordinance took effect.

(2) A dwelling-house shall not be erected -

- (a) on an allotment, other than a hatchet-shaped allotment, which has an area of less than 836 square metres;
- (b) on any rectangularly-shaped allotment, which has a width of less than 18 metres;
- (c) on any irregularly-shaped allotment, other than a hatchet-shaped allotment, which has a width of less than 18 metres at a distance of 12 metres from the street alignment; or
- (d) on any hatchet-shaped allotment which has an area of less than 1,170 square metres exclusive of the area of the access corridor which shall have a width of not less than 4.5 metres.

(3) Nothing in this clause shall operate to prohibit the erection of a dwelling-house on any allotment of land which was in existence as a separate allotment of land on the appointed day.

(4) Notwithstanding subclause (2), a dwelling-house may, with the consent, under this order, of the council, be erected on any allotment of land the area of which or the width of which is less than the area or width prescribed by that subclause but which, in the opinion of the council, departs therefrom only to a minor extent.

6. An advertising structure may be erected with the consent of the council, only where -

- (a) that structure is intended for the display of advertisements indicating the purposes for which the land on which it is erected is used; and
- (b) the council is satisfied that the advertising structure is not likely to interfere with the amenity of the locality.

*Clause 7 Omitted by Local Environmental Plan No 72
vide Government Gazette No 64 of 26th May 1989*

7.

*New Clause 7 added by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 1 vide Government Gazette No 99 of 6th October 1989*

Heritage Items

7. (1) A person shall not, in respect of a building, work, relic, tree or place that is a heritage item -

- (a) demolish or alter the building or work;
- (b) damage or move the relic, including excavation for the purpose of exposing the relic;
- (c) damage or despoil the place or tree; or
- (d) erect a building on or subdivide land on which the building, work or relic is situated or that comprises the place,

except with the consent of the Council.

*New Subclause added by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 2
vide Government Gazette No 37 of 1st March 1991*

(2) The Council shall not grant consent to a development application required by subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.

*New Clause 7A added by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 1 vide Government Gazette No 99 of 6th October 1989*

Development in the vicinity of heritage items

7A. The Council shall not grant consent to an application to carry out development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

*New Clause 7B added by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 1 vide Government Gazette No 99 of 6th October 1989*

Heritage advertisements and notifications

7B. (1) Except as provided by subclause (2) -

(a) the provisions of sections 84, 85, 86, 87(1) and 90 of the Environmental Planning and Assessment Act 1979 apply to and in respect of -

- (i) the demolition of a building or work that is a heritage item;
- (ii) the demolition of a building or work within a conservation area; and
- (iii) the use of a building or land referred to in clause 7C for any purpose which, but for that clause, would be prohibited under this plan,

in the same way as those provisions apply to and in respect of designated development; and

(b) where a person make a development application to demolish a building or work that is a heritage item, the Council -

- (i) shall, on receipt of that application, notify the Heritage Council of the intended demolition; and
- (ii) shall not grant consent until 28 days after the Heritage Council has been so notified.

(2) Subclause (1) does not apply to the partial demolition of a heritage item or of a building or work within a conservation area if, in the opinion of the Council, the partial demolition is of a minor nature and will not adversely affect the heritage significance of the heritage item or the building or work in relation to the environmental heritage of the Municipality of Ku-ring-gai.

*New Clause 7C added by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 1 vide Government Gazette No 99 of 6th October 1989*

Conservation incentives relating to heritage items

7C. (1) Nothing in this Order prevents the Council from granting consent to -

- (a) the use, for any purpose, of a building that is a heritage item or the land on which that building is erected; or

- (b) the use, for any purpose, of a building within a conservation area or the land on which the building is erected,

if it is satisfied that -

- (c) the proposed use would have little or no adverse effect on the amenity of the area; and
- (d) conservation of the building depends on the Council granting consent under this clause.

(2) When considering an application to erect a building on land on which there is situated a building which is a heritage item, the Council may -

- (a) for the purposes of determining the floor space ratio; and
- (b) for the purposes of determining the number of parking spaces to be provided on the site,

exclude from its calculation of the floor space of the buildings erected on the land the floor space of the item, but only if the Council is satisfied that the conservation of the building depends on the Council granting consent under this clause.

8. A person shall not, without the consent of the council, ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree.

*Clause 9 added by Sydney Regional Environmental Plan No 2 - Dual Occupancy
vide Government Gazette No 193 of 18th December 1981*

*Clause 9 amended by Local Environmental Plan No 33
vide Government Gazette No 108 of 26th July 1985*

*Clause 9 deleted by Sydney Regional Environmental Plan No 12
vide Government Gazette No 104 of 19th June 1987*

Dwelling-houses - Dual Occupancy

9.

*New Clause 9 added by Local Environmental Plan No 72
vide Government Gazette No 64 of 26th May 1989*

Height of Buildings

9. (1) A building shall not be erected to a height, across any point of a site, which is greater than 7 metres without the consent of the Council.

(2) A person shall not erect a dwelling-house or dual occupancy building with a height in excess of 8 metres.

(3) Subclause (2) does not enable a second dwelling-house erected on an allotment to exceed a height of 3.6 metres in contravention of clause 11 of Sydney Regional Environmental Plan No 12 - Dual Occupancy.

(4) In this clause -

"ground level" means the level of a site before development is carried out on the site under this order;

"height", in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

*Clause 10 added by Local Environmental Plan No 33
vide Government Gazette No 108 of 26th July 1985*

*Clause 10 deleted by Sydney Regional Environmental Plan No 12
vide Government Gazette No 104 of 19th June 1987*

Subsidiary dwelling-houses

10.

*New Clause 10 added by Local Environmental Plan No 72
vide Government Gazette No 64 of 16th May 1989*

Subdivision

10. A person shall not subdivide land to which this Order applies except with the consent of the Council.

*New Clause 11 added by Local Environmental Plan No 72
vide Government Gazette No 64 of 16th May 1989*

*Clause 11 omitted and new Clause 11 added by Local Environmental Plan No 94
vide Government Gazette No 114 of 11th September 1992*

Built-upon area

11. (1) This clause applies to any land on which a dwelling-house is to be erected or extended.

(2) The maximum built-upon area of land to which this clause applies is 60 per cent.

(3) Subclause (2) does not prevent the carrying out of development in respect of which an application under the Environmental Planning and Assessment Act 1979 or the Local Government Act 1919 has been lodged with the Council and which has not been determined by the Council prior to the date upon which Ku-ring-gai Local Environmental Plan No 94 was published in the Gazette.

(4) In this clause -

"Built-upon area" means the area of a site containing any built structure (whether covered or uncovered), any building, carport, terrace, pergola, hard-surface recreation area, swimming pool, tennis court, driveway, parking area or any like structure, but excluding minor landscape features.

*Schedule 1 added by Ku-ring-gai (Heritage Conservation)
Local Environmental Plan No 1
vide Government Gazette No 99 of 6th October 1989*

SCHEDULE 1 - Heritage Items

(Cl 3(2))

(Numbers refer to street numbers unless otherwise specified)

Nos 6 and 8 Treatts Road, Lindfield

* * * * *

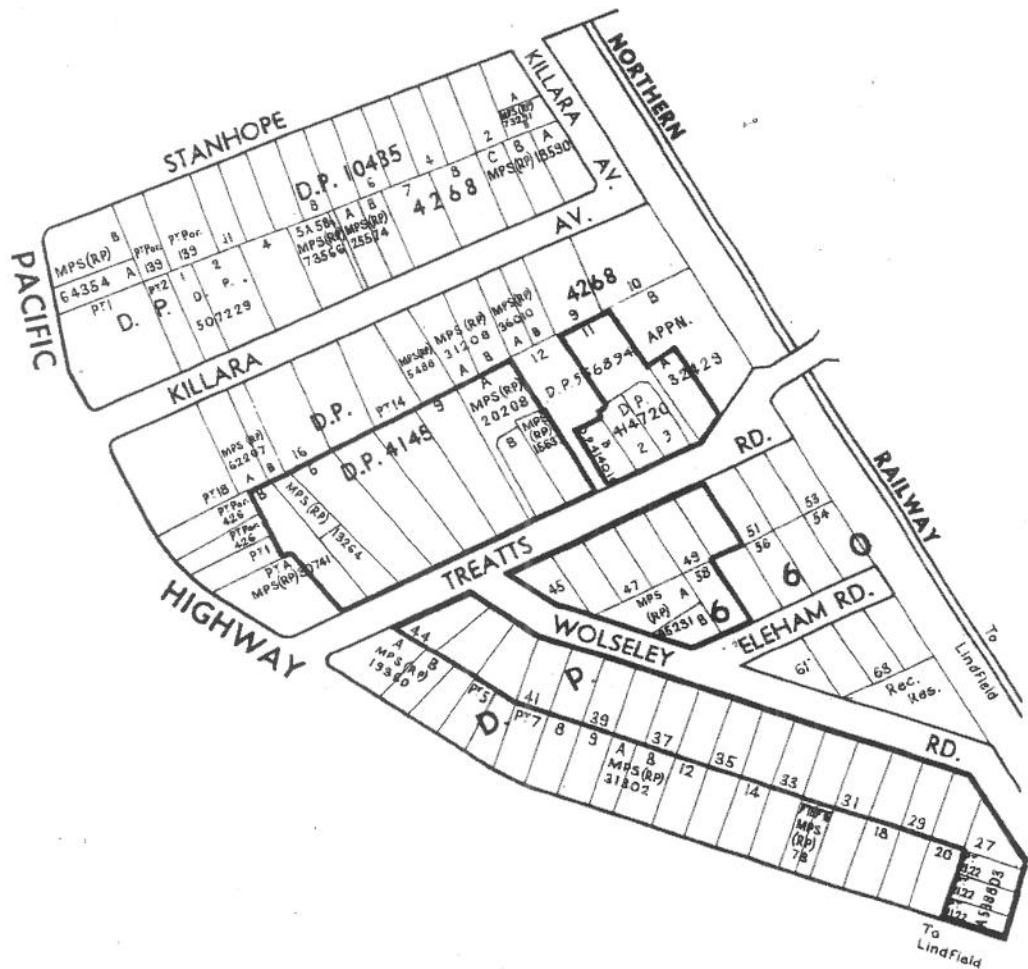
NEW SOUTH WALES PLANNING AND ENVIRONMENT COMMISSION

LAND SUSPENSION MAP

(UNDER SECTION 342 Y OF LOCAL GOVERNMENT ACT)

Description Land fronting Treatts, Wolseley and Eleham Roads
 Mun/Shire/City Ku-ring-gai Locality Lindfield
 Parish of Gordon County of Cumberland

Scale 1:4000



COMPILED FROM INFORMATION IN

580/355

BY R.E.B. DATE 8-6-80

FILE REFERENCE

78/1740

PLAN APPROVED

W. J. Galt

PRINCIPAL CARTOGRAPHER

PLAN NUMBER

11461

THIS IS THE PLAN REFERRED TO IN INTERIM DEVELOPMENT ORDER No 78

SHIRE/MUNICIPALITY/CITY OF: Ku-ring-gai

PLANNING SCHEME FOR: Ku-ring-gai

LAND SUSPENDED UNDER SEC 342Y, LOCAL GOVERNMENT ACT SHOWN THUS: ————

N. S. W. GOVERNMENT GAZETTE No 86 OF

SUSPENSION No 245: 4012