

OBJECTION UNDER STATE ENVIRONMENTAL PLANNING POLICY No. 1 – Development Standards

Property Description: 573 – 585 Pacific Highway, Killara

Development: Demolition and Construction of a Residential Flat
Building with Basement Car Park

Development Standard: Zone Interface

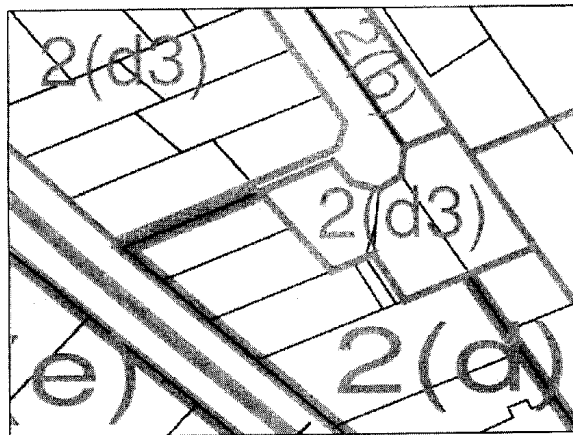
Introduction

The State Environmental Planning Policy No. 1 – Development Standards (SEPP 1) objection has been prepared to address the technical variation to the zone interface development standard contained in clause 25L(2) of the Ku-ring-gai Local Environmental Plan No. 194 (LEP 194).

Clause 25L(2) requires that the 3rd and 4th storeys of the building are setback at least 9m from any boundary that is not within the 2(d3) zone. The 3rd and 4th storeys at the south-east elevation are 6m from the boundary adjoining Caithness walkway and 9.6m from the boundary with 571 Pacific Highway, zoned 2(d) – Residential.

Council's pre-lodgement notes state that Caithness walkway is zoned 2(d) – Residential. This is unclear from the zone maps on Council's [website](#), however, to allow the application to be determined a SEPP 1 objection is submitted with the application.

The zoning is shown in the following plan.



SEPP 1 allows a written objection to be made seeking variation to a development standard. In making the written objection there are three main criteria which must be satisfied before consent pursuant to SEPP 1 is granted, being:

1. That the requirement is a development standard;
2. That the objection lodged by the applicant establishes that compliance with the standard is, in the circumstances, unreasonable and unnecessary; and
3. The granting of consent is consistent with the aims of the policy as set out in Clause 3 of SEPP 1.

The following comments are made in respect to this criteria:

- The definition of a development standard is provided in Section 4 of the Environmental Planning and Assessment Act, 1979 (the Act) and zone interface is within this definition.
- No's 2 and 3 of the above mention criteria will be discussed in the following sections of this submission and it will be demonstrated that compliance with the height development standard is unreasonable and unnecessary and the SEPP 1 objection is well founded.

Relevant Development Standard

The development standard is contained in clause 25L(2) of LEP 194 as follows:

Clause 25L(2) states:

The third and fourth storey of any building on land within Zone No 2(d3) must be setback at least 9 metres from any boundary of the site of the building with land (other than a road) that is not within Zone No 2(d3).

Proposed Variation to the Development Standard

The third and fourth storeys on the south-east elevation of the building are setback 6m from the boundary with Caithness walkway. Council's pre-lodgement notes state that Caithness walkway is zoned 2(d) – Residential.

It is noted that the building is setback 9.6m from the boundary with 571 Pacific Highway being zoned 2(d) Residential meeting the zone interface to this property containing a residential flat building.

Objectives of the 2(d3) Residential Zone and Development Standard

Clause 25I of LEP 194 contains site requirements and development standards for multi-unit housing including heads of consideration. The heads of consideration are addressed in section 4.5 of the Statement of Environmental Effects.

Clause 25L(1) of LEP 194 contains the objective of the zone interface as follows:

The objective of this clause is to provide a transition in scale of buildings between certain zones.

Further, clause 25L(3) states:

Landscaping required to screen development from any adjoining property must be provided on the site and must not rely on landscaping on the adjoining property.

The development proposal meets the objectives of the zone interface. The separation to the adjoining residential flat building of 9.6m provides a transition in scale between the development proposal and the 3 storey residential flat building on the southern side of Caithness walkway.

The 6m setback to the boundary accommodate sufficient area for landscaping with Blueberry Ash and Lilly Pilly trees on the boundary having a maturity height of 5 – 25m contributing the transition between buildings.

Grounds for Variation

In my opinion the variation to the zone interface development standard is acceptable in the circumstances of this case and compliance with the development standard is considered unreasonable and unnecessary for the following reasons:

- There is adequate separation to the 3 storey residential flat building at 571 Pacific Highway to ensure a suitable transition in development is achieved between buildings and zones.
- The south-east elevation of the building is setback 9.6m from boundary with 571 Pacific Highway, zoned 2(d) – Residential meeting the zone interface control contained in clause 25L(2) of LEP 194.
- Caithness walkway on the southern boundary of the subject site provides separation between the 2(d3) and 2(d) Residential zones and the separation achieves transition in building form and scale.

- The development proposal has a minimum 6m setback to the southern boundary with the deep soil planting area accommodating the planting of screen trees (Blueberry Ash and Lilly Pilly) achieving a landscape buffer on the subject site, between the zones.

The 3rd and 4th storeys of the south-east elevation of the development proposal are setback 6m from the southern boundary and 9.6m to the boundary with 571 Pacific Highway, separated by Caithness walkway. Council's pre-lodgement report states that Caithness walkway is zoned 2(b) – Residential and therefore the proposal varies the 9m zone interface control. The variation is acceptable noting there is a 9.6m setback to the boundary with 571 Pacific Highway achieving adequate separation/transition between buildings.

In this case compliance with the zone interface development standard is considered to be unreasonable and unnecessary as the proposal meets the objectives (heads of consideration) for multi unit housing contained in LEP 194, the zone interface objective contained in clause 25L(1) of LEP 194 and enables the SEPP 1 objection to be supported by Council.

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