

Model local clauses for Standard Instrument LEPs

General Information

If the below “Urban Release Area” provision is included as Part 6 in a Standard Instrument, the following additional subclause (8A) needs to be included in clause 4.6:

(8A) This clause does not allow consent to be granted for development that would contravene clauses 6.2 or 6.3 (add any other relevant clauses).

The urban release area model clauses 6.1 through 6.4 are to be used together as part of a ‘package’ of clauses i.e., they should all be included in the SI where urban release areas have been identified and are supported.

If the release area relates to industrial uses/zones, please contact the Department to discuss.

Part 6 Urban release areas

6.1 Arrangements for designated State public infrastructure [local]

Drafting direction.

This clause is likely to be amended after the contribution provisions of the 2008 Amending Act have commenced.

A definition of *urban release area* must be included in the Dictionary. It may define the area, usually by reference to an area on an urban release area map, or alternatively by description if it is agreed with the Department that a map is not required. For example:

urban release area means an area of land shown hatched and lettered “Urban Release Area” on the Urban Release Area Map.

Urban Release Area Map means the [Name] Local Environmental Plan 2008 Urban Release Area Map.

The following definition must also be included in the Dictionary:

designated State public infrastructure means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) land required for regional open space,
- (d) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

- (1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.
- (2A) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.

Drafting direction.

Subclause (2A) is the most common provision. However, if subdivision is prohibited by the zone applying to the land before it became an urban release area, the minimum lot size test should be omitted and alternative subclause (2B) should be used.

- (2B) Development consent must not be granted for the subdivision of land in an urban release area unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that land.
- (3) Subclause (2) does not apply to:
 - (a) any lot identified in the certificate as a residue lot, or
 - (b) any lot created by a subdivision previously consented to in accordance with this clause, or
 - (c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or
 - (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.
- (4) This clause does not apply to land in an urban release area if all or any part of the land is in a special contributions area (as defined by section 93C of the Act).

Drafting direction.

1. The special contributions areas are described in Schedule 5A of the Act.
2. The following subclause should be added if this provision is being inserted into an amending LEP that is not a Standard Instrument
- (5) State Environmental Planning Policy No 1—Development Standards does not apply to the subdivision of land to which subclause (2A or 2B) applies.