



New South Wales

State Environmental Planning Policy Amendment (36–50 Cumberland Street, The Rocks—Sirius Site) 2018

under the

Environmental Planning and Assessment Act 1979

His Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ANTHONY ROBERTS, MP
Minister for Planning

State Environmental Planning Policy Amendment (36–50 Cumberland Street, The Rocks—Sirius Site) 2018

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy Amendment (36–50 Cumberland Street, The Rocks—Sirius Site) 2018*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

3 Land to which Policy applies

This Policy applies to land at 36–50 Cumberland Street, The Rocks, referred to in this Policy as the *Sirius site*.

4 Maps

- (1) The maps adopted by *State Environmental Planning Policy (State Significant Precincts) 2005* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Policy.
- (2) The maps adopted by *Sydney Local Environmental Plan 2012* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Policy.

5 Repeal of Policy

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

Schedule 1 Amendment of State Environmental Planning Policy (State Significant Precincts) 2005

[1] Schedule 3 State significant precincts

Insert at the end of the Schedule, with appropriate Part and clause numbering:

Part Sirius site

Division 1 General

Land to which Part applies

This Part applies to the land identified on the Land Application Map, referred to in this Part as the *Sirius site*.

Interpretation

(1) In this Part:

Active Street Frontages Map means the State Environmental Planning Policy (State Significant Precincts) 2005 Sirius Active Street Frontages Map.

building height (or *height of building*) means:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

existing building means the building on land within the Sirius site immediately before the commencement of this Part.

Height of Buildings Map means the State Environmental Planning Policy (State Significant Precincts) 2005 Sirius Height of Buildings Map.

Land Application Map means the State Environmental Planning Policy (State Significant Precincts) 2005 Sirius Land Application Map.

(2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Part.

Relationship with continued planning provisions under Sydney Cove Redevelopment Authority Act 1968

An approved scheme in force under clause 29 of Schedule 1 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* does not apply to land within the Sirius site.

Minister is consent authority

The consent authority for development on land within the Sirius site is the Minister.

Division 2 Development standards

Land use zone

(1) For the purposes of this Policy, land within the Sirius site is in Zone B8 Metropolitan Centre.

- (2) The consent authority must have regard to each of the objectives for development in Zone B8 Metropolitan Centre when determining a development application in respect of land within that zone.

Zone B8 Metropolitan Centre

- (1) The objectives for development in Zone B8 Metropolitan Centre are as follows:
- (a) to recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy,
 - (b) to provide opportunities for an intensity of land uses commensurate with Sydney's global status,
 - (c) to permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community,
 - (d) to encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling,
 - (e) to promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone B8 Metropolitan Centre:
Nil
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B8 Metropolitan Centre:
Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Tourist and visitor accommodation; Any other development not specified in subclause (2) or (4)
- (4) Development for any of the following purposes is prohibited on land within Zone B8 Metropolitan Centre:
Nil

Design excellence

- (1) The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.
- (2) This clause applies to development involving the erection of a new building on land within the Sirius site or alterations to the existing building.
- (3) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.
- (4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:
- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

- (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain and, in the case of an alteration to the existing building, enhance the building's unique historic characteristics,
- (c) whether the development detrimentally impacts on view corridors, with particular regard to views to and from National Heritage sites, including the Sydney Opera House and Sydney Harbour Bridge,
- (d) whether the development detrimentally impacts the world heritage value of the Sydney Opera House having regard to Division 3A of Part 5 of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*,
- (e) the requirements of the Design Excellence Guidelines,
- (f) how the development addresses the following matters:
 - (i) the suitability of the land for development,
 - (ii) existing and proposed uses and use mix,
 - (iii) impacts on world, national, state and local heritage items in proximity to the site,
 - (iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - (v) bulk, massing and modulation of buildings,
 - (vi) street frontage heights,
 - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
 - (viii) the achievement of the principles of ecologically sustainable development,
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,
 - (x) the impact on, and any proposed improvements to, the public domain and streetscape,
 - (xi) the impact on any special character area,
 - (xii) achieving appropriate interfaces at ground level between the building and the public domain,
 - (xiii) excellence in and integration of landscape design.
- (5) Development consent must not be granted for development to which this clause applies unless:
 - (a) an architectural design competition that is consistent with the Design Excellence Guidelines has been held in relation to the proposed development, and
 - (b) the consent authority takes into account the results of the architectural design competition, and
 - (c) a design review panel has reviewed the design of the proposed development.
- (6) An architectural design competition under subclause (5) is not required for any proposed development that is a minor external alteration to the existing building if:
 - (a) the consent authority is satisfied that a design competition would be unreasonable or unnecessary, and

- (b) a design review panel has reviewed the design of the proposed development.
- (7) In this clause:
- architectural design competition*** means a competitive process conducted in accordance with the Design Excellence Guidelines and endorsed by the NSW Government Architect.
- building demonstrating design excellence*** means a building where the design of the building (or the design of an external alteration to the building) is the winner of a competitive design process and the consent authority is satisfied that the building or alteration exhibits design excellence.
- Design Excellence Guidelines*** means the Design Excellence Guidelines issued by the Secretary from time to time.
- design review panel*** means a panel of 3 or more persons established by the NSW Government Architect on behalf of the consent authority for the purposes of this clause.

Car parks

- (1) The maximum number of car parking spaces for residential flat buildings and multi dwelling housing on land within the Sirius site is as follows:
- (a) for each studio dwelling—0.1 spaces,
 - (b) for each 1 bedroom dwelling—0.3 spaces,
 - (c) for each 2 bedroom dwelling—0.7 spaces,
 - (d) for each 3 or more bedroom dwelling—1 space.
- (2) The maximum number of car parking spaces for a building used for the purposes of serviced apartments or hotel or motel accommodation on land within the Sirius site is as follows:
- (a) 1 space for every 4 bedrooms up to 100 bedrooms,
 - (b) 1 space for every 5 bedrooms more than 100 bedrooms.

Height of buildings

The height of any new building, or any alterations to the existing building, on land within the Sirius site is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Active street frontages

- (1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages on land within the Sirius site.
- (2) This clause applies to land identified as “Active street frontage” on the Active Street Frontages Map.
- (3) Development consent must not be granted to the erection of a building, the alteration of the existing building or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection, alteration or change of use.
- (4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following:
- (a) entrances and lobbies (including as part of mixed use development),
 - (b) access for fire services,

- (c) vehicular access.

Maximum gross floor area

- (1) This clause applies if the existing building is completely demolished.
- (2) The maximum gross floor area of a building on any land within the Sirius site is 8,420m².

Division 3 Additional development standards if existing building not demolished

Application of Division

This Division applies if the existing building is not completely demolished.

Maximum gross floor area

The maximum gross floor area of a building on land within the Sirius site is 7,010m².

Exceptions to development standards

- (1) The objectives of this clause are as follows:
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that:
- (a) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (b) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.
- (5) Development consent must not be granted under this clause for a subdivision of land.
- (6) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (4).

- (7) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
 - (c) any variation to the maximum gross floor area of a building on land within the Sirius site that would result in a gross floor area of more than 8,420m².

Schedule 2 Amendment of State Environmental Planning Policy (State and Regional Development) 2011

Schedule 2 State significant development—identified sites

Omit clause 6. Insert instead:

6 Development in The Rocks

Development on land identified as being within The Rocks Site on the State Significant Development Sites Map if it has a capital investment value of more than \$10 million.