



North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S99/00633/PC)

ANDREW REFSHAUGE, M.P.,
Minister for Planning

North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre*.

2 Aims of plan

The aims of this plan are as follows:

- (a) to amend *North Sydney Local Environmental Plan 2001*:
 - (i) to provide that that plan extends to the area known as the “North Sydney Centre”, and
 - (ii) to zone the land previously known as the “North Sydney Centre” under that plan, and
 - (iii) to redefine the “North Sydney Centre” and introduce objectives and development controls for the “North Sydney Centre”, and
 - (iv) to add heritage items to the appropriate schedule to that plan that were previously deferred from that plan under section 70 (4) of the *Environmental Planning and Assessment Act 1979*, and
- (b) to make consequential amendments to *North Sydney Local Environmental Plan 1989*.

3 Land to which plan applies

This plan applies to land previously known as the “North Sydney Centre”, as shown edged heavy black on Sheet 1 of the map marked “North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre” deposited in the office of North Sydney Council.

4 Amendment of North Sydney Local Environmental Plan 2001

North Sydney Local Environmental Plan 2001 is amended as set out in Schedule 1.

5 Amendment of North Sydney Local Environmental Plan 1989

North Sydney Local Environmental Plan 1989 is amended as set out in Schedule 2.

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Schedule 1 Amendment of North Sydney Local Environmental Plan 2001

(Clause 4)

[1] Clause 4 Where this plan applies

Omit “subclauses (2) and (3)” from clause 4 (1).

Insert instead “subclause (2)”.

[2] Clause 4 (3)

Omit the subclause.

[3] Table to Part 2, Zoning and permissible use table

Insert in the Table to Part 2 after the matter relating to the Residential G Zone:

Commercial Zone

1 Objectives of the zone

The particular objectives of this zone are:

- (a) to prevent the loss of commercial floor space to residential use, and
- (b) to encourage a diverse range of employment opportunities, and
- (c) to minimise adverse effects of development on residents and occupiers of existing and new development.

2 Development which may be carried out in this zone

Development for the purpose of:

advertisements; business identification signs; child care centres; clubs; commercial premises; community facilities; community notice signs; drainage; educational establishments; hospitals; hotels; medical centres; open space; places of assembly; places of public worship; real estate signs; recreational facilities; refreshment rooms; remediation; restricted premises; shops; showrooms; take-away food shops; taverns; telecommunications facilities; temporary signs; temporary structures for the sale of produce and merchandise; utility installations, other than gasholders or generating works.

[4] Part 3, Division 4

Omit the Division (including the note to the Division). Insert instead:

Division 4 North Sydney Centre

28 Application of Division

This Division applies to land shown edged heavy black and marked “North Sydney Centre” on Sheet 2 of the map marked “North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre” referred to in this Division as the “*North Sydney Centre*”.

28A Division to prevail

The provisions of this Division prevail over all other provisions of this plan, to the extent of any inconsistency, except for Part 4—Heritage provisions.

28B North Sydney Centre objectives

The specific objectives of this Division are as follows:

- (a) to maintain the status of the North Sydney Centre as a major commercial centre within Australia,
- (b) to require arrangements for railway infrastructure to be in place before additional non-residential gross floor area is permissible in relation to any proposed development in the North Sydney Centre,
- (c) to ensure that railway infrastructure, and in particular North Sydney Station, will enable and encourage a greater percentage of people to access the North Sydney Centre by public transport than by private transport and will:
 - (i) be convenient and accessible, and
 - (ii) enable a reduction in dependence on private car travel to the North Sydney Centre, and
 - (iii) be adequate to achieve no increase in car parking, and
 - (iv) have the capacity to service the demands generated by development in the North Sydney Centre,

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- (d) to discourage use of motor vehicles in the North Sydney Centre,
- (e) to encourage access to and within the North Sydney Centre for pedestrians and cyclists,
- (f) to allow for 250,000 square metres (maximum) non-residential gross floor area in addition to the estimated existing (as at the commencement of this Division) 700,000 square metres non-residential gross floor area,
- (g) to prohibit further residential development in the core of the North Sydney Centre,
- (h) to encourage the provision of high-grade commercial space with a floor plate, where appropriate, of at least 1000 square metres,
- (i) to achieve a variety of commercial space,
- (j) to encourage the refurbishment, recycling and rebuilding of older buildings,
- (k) to encourage a diverse range of employment, living, recreation and social opportunities,
- (l) to promote high quality urban environments and residential amenity,
- (m) to provide significant public benefits such as open space, through-site linkages, childcare and the like,
- (n) to improve accessibility within and to the North Sydney Centre,
- (o) to protect the amenity of residential zones and existing open space within and nearby the North Sydney Centre,
- (p) to prevent any net increase in overshadowing of any land zoned residential or public open space or identified as a special area,
- (q) to maintain areas of open space on private land and promote the preservation of existing setbacks and landscaped areas, and protect the amenity of these areas.

28C Railway infrastructure

(1) **Railway infrastructure objective**

The specific objective of this clause is to ensure there will be railway infrastructure to accommodate the growth of the North Sydney Centre in accordance with this Division.

(2) **Railway infrastructure control**

Consent must not be granted to the carrying out of development on any land in the North Sydney Centre if the total non-residential gross floor area of buildings on the land after the development is carried out would exceed the total non-residential gross floor area of buildings lawfully existing on the land immediately before the development is carried out.

(3) **Exception railway infrastructure control**

Despite subclause (2) but subject to subclause (5), consent may be granted to the carrying out of development on any land in the North Sydney Centre that would result in an increase in the total non-residential gross floor area of buildings lawfully existing on the land, but only if the Director-General has first certified, in writing to the consent authority, that satisfactory arrangements have been made for railway infrastructure that will provide for the increased demand for railway infrastructure generated by the development.

(4) In determining whether to certify arrangements in accordance with subclause (3), the Director-General must consider the views of:

- (a) the New South Wales Department of Transport, and
- (b) any other public authority that the Director-General considers relevant.

(5) Consent must not be granted in accordance with subclause (3) if the consent authority is satisfied that the increase in non-residential gross floor area authorised under the consent concerned when added to the increases (reduced by any decreases) in non-residential gross floor area authorised under all consents granted in relation to land in the North Sydney Centre since the commencement of this Division would exceed 250,000 square metres.

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- (6) The Council is to review this Division to determine whether the policy objectives of the Division remain valid and whether the terms of the Division remain appropriate for securing those objectives. The review is to be undertaken as soon as practicable after consent has been granted that would result in the sum of increases (reduced by any decreases) in the non-residential gross floor area authorised under all consents granted in relation to land in the North Sydney Centre since the commencement of this Division exceeding 200,000 square metres.
- (7) For the purposes of subclauses (5) and (6):
 - (a) an increase in non-residential gross floor area is the amount by which the non-residential gross floor area authorised on land after a consent is granted exceeds the non-residential gross floor area authorised on the land immediately before the consent was granted, and
 - (b) a decrease in non-residential gross floor area is the amount by which the non-residential gross floor area authorised on land after a consent is granted is less than the non-residential gross floor area authorised on the land immediately before the consent was granted, and
 - (c) a consent does not include a consent that has lapsed.
- (8) In this clause, *non-residential gross floor area* means that part of the gross floor area of a building that is used for the purposes of commercial premises, hotels, motels, refreshment rooms, serviced apartments, shops, showrooms, take-away food shops or recreation facilities (but only where those facilities are used for the purpose of gain).

28D Building heights and massing

(1) Building heights and massing objectives

The specific objectives of this clause are as follows:

- (a) to achieve a transition of building heights generally from 100 Miller Street (Northpoint) and 79–81 Berry Street (being the location of the tallest buildings) stepping down towards the boundaries of the North Sydney Centre,

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- (b) to promote a height and massing that has no adverse impact on land in the public open space zone or land identified as a special area on Sheet 5 of the map marked “North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre” or on heritage items,
 - (c) to minimise overshadowing of land in the residential and public open space zones or identified as a special area on Sheet 5 of the map marked “North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre”,
 - (d) to protect the privacy of residents within and around the North Sydney Centre,
 - (e) to promote scale and massing that provides for pedestrian comfort, in terms of weather protection, solar access and visual dominance,
 - (f) to encourage consolidation of sites for provision of high grade commercial space and provision of public benefits.
- (2) **Building heights and massing controls**

Consent must not be granted to the erection of a building within the North Sydney Centre, unless:

- (a) the height of the building will not exceed RL 195 AHD, and
- (b) there is no net increase in overshadowing of any land between the hours of 9am and 3pm, 21 June outside the composite shadow area, as shown on the map marked “North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre” (except land that is in the Road or Railways Zone), and
- (c) there is no net increase in overshadowing, between 10am and 2pm, at any time of the year, of any land that is within the North Sydney Centre and is within the public open space zone or within a special area as shown on Sheet 5 of the map marked “North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre”, and

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- (d) there will be no increase in overshadowing that would reduce the amenity of any dwelling that is outside the North Sydney Centre and falls within the composite shadow area referred to in paragraph (b), and
 - (e) the site area is not less than 1,000 square metres.
- (3) *State Environmental Planning Policy No 1—Development Standards* does not apply to a requirement made by subclause (2) (a), (b) or (c) (including a requirement varied under subclause (4)).

(4) **Minor variation of overshadowing controls**

The consent authority may make a determination to vary, to a minor extent only, the operation of subclauses (2) (b) or (c), or both, in respect of a particular development application, but only if:

- (a) it is satisfied that the variation is justified due to the merits of the development application and the public benefit to be gained, and
 - (b) it is satisfied that any increase in overshadowing will not reduce the amenity of any land, and
 - (c) in relation to a variation of the operation of subclause (2) (b), the variation will result in not more than 2 hours net increase in overshadowing of land referred to in that paragraph between the hours of 9am and 3pm, 21 June, and
 - (d) in relation to a variation of the operation of subclause (2) (c), the variation will result in not more than 15 minutes net increase in overshadowing of land referred to in that paragraph between the hours of 10am and 12 noon, and no net increase between the hours of 12 noon and 2pm, on any day.
- (5) **Building design and public benefits**

When determining whether or not to grant consent to a development application in respect of land within the North Sydney Centre, the consent authority must consider:

- (a) the impact of the proposed development in terms of scale, form and massing within the context of the locality and landform, the natural environment and neighbouring development and in particular lower scale development adjoining the North Sydney Centre, and

- (b) whether the proposed development provides public benefits such as open space, through-site linkages, community facilities and the like, and
- (c) whether the proposed development preserves important view lines and vistas, and
- (d) whether the proposed development enhances the streetscape in terms of scale, materials and external treatments, and provides variety and interest.

28E Miller Street setback area

(1) **Miller Street setback area objective**

The specific objective of this clause is to maintain the established setback and landscaped setting on the eastern side of Miller Street between McLaren Street and Mount Street.

(2) **Miller Street setback area control**

A building must not be erected within the Miller Street setback area, as shown on Sheet 3 of the map marked “North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre”, unless it is less than 1.5 metres high and is required only for access to, or landscaping of, a site.

28F 93–95 Pacific Highway and 263 Alfred Street, North Sydney

Despite any other provision of this plan, the land know as 93–95 Pacific Highway, North Sydney and 263 Alfred Street North, North Sydney may be used for residential purposes.

Division 4A Commercial zone (outside North Sydney Centre)

28G Building height

(1) **Building height objectives**

The specific objectives of this clause are as follows:

- (a) to ensure compatibility between development in the commercial zone and adjoining residential, mixed use, and open space zones,

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- (b) to provide ventilation, views, building separation, setback, solar access and light to land within the commercial and other zones,
- (c) to avoid overshadowing of dwellings, especially windows, landscaped areas, courtyards, roof decks, balconies and the like by proposed development,
- (d) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient.

(2) **Building height controls**

A building must not be erected in the commercial zone, outside the North Sydney Centre, in excess of the height shown on Sheet 2 of the map marked “North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre”.

28H Floor space

(1) **Floor space ratio objectives**

The specific objectives of this clause are as follows:

- (a) to maintain existing commercial space,
- (b) to minimise traffic generation from commercial development.

(2) **Floor space ratio controls**

A building must not be erected in the commercial zone, outside the North Sydney Centre, if the floor space ratio is greater than the maximum specified on Sheet 2 of the map marked “North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre”.

[5] Schedule 2 Definitions

Insert at the end of the definition of *map*:

North Sydney Local Environmental Plan 2001 (Amendment No 9)—North Sydney Centre—Sheets 1, 2, 3, 4 and 5

[6] Schedule 3 Heritage items

Insert in appropriate order:

NSHS No	Address	Heritage significance
1624	2 Hampden Street	Local
1625	4 Hampden Street	Local
1626	6 Hampden Street	Local
1627	8 Hampden Street	Local
1628	10 Hampden Street	Local
1629	12 Hampden Street	Local
1630	14 Hampden Street	Local
0866	8 McLaren Street	Regional
0867	10 McLaren Street	Regional
1326	41 McLaren Street, Simsmetal House	Regional
1331	201 Miller Street	Regional
0849	255–257 Miller Street	Local
1009	263 Miller Street	Local
1423	232–232A Miller Street, Jago's Cafe	Regional
0870	240 Miller Street, Trewyn Terraces	Local
1714	242 Miller Street, Trewyn Terraces	Local
1715	244 Miller Street, Trewyn Terraces	Local

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NSHS No	Address	Heritage significance
1716	246 Miller Street, Trewyn Terraces	Local
0871	248 Miller Street, Trewyn Terraces	Local
0806	16 Mount Street, North Sydney Telephone Exchange—two storey building corner Mount & William Sts	Regional
0971	45 Ridge Street	Local
1790	47 Ridge Street	Local
1791	49 Ridge Street	Local
1792	51 Ridge Street	Local
1930	179 Walker Street	Local
2717	185 Walker Street	Local
1932	144 Walker Street	Local
1933	146 Walker Street	Local
1934	148 Walker Street	Local
1935	159 Walker Street	Local

[7] Schedule 5 Uncharacteristic elements

Insert in appropriate order:

5 McLaren Street, North Sydney

**Schedule 2 Amendment of North Sydney Local
Environmental Plan 1989**

(Clause 5)

[1] Clause 3 Land to which this plan applies

Omit clause 3 (a).

[2] Clause 3 (b)

Omit “that plan” where firstly occurring.

Insert instead “*North Sydney Local Environmental Plan 2001*”.