



New South Wales

# **State Environmental Planning Policy Amendment (Rhodes Precinct) 2021**

under the

Environmental Planning and Assessment Act 1979

Her 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*.

ROB STOKES, MP  
Minister for Planning and Public Spaces

## **State Environmental Planning Policy Amendment (Rhodes Precinct) 2021**

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### **1 Name of Policy**

This Policy is *State Environmental Planning Policy Amendment (Rhodes Precinct) 2021*.

### **2 Commencement**

This Policy commences on 30 October 2021 and is required to be published on the NSW legislation website.

### **3 Maps**

The maps adopted by *Canada Bay Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Policy.

### **4 Repeal of Policy**

This Policy is repealed on the day following the day on which this Policy commences.

## **Schedule 1      Amendment of Canada Bay Local Environmental Plan 2013**

**[1] Land Use Table**

Insert “; Water supply systems” in appropriate order in Zone R4, item 3.

**[2] Land Use Table, Zone B4**

Insert “Water supply systems;” in appropriate order in item 3.

Omit “; Water supply systems” from item 4.

**[3] Clause 4.6 Exceptions to development standards**

Insert after clause 4.6(8)(cb)—

(cc) clauses 7.3 and 7.8.

**[4] Clause 5.1 Relevant acquisition authority**

Insert in appropriate order in the table to clause 5.1(2)—

Zone R4 High Density Residential and marked “Classified road”      Transport for NSW

**[5] Clause 6.5 Active street frontages**

Insert “and Zone R4 High Density Residential” after “Zone B4 Mixed Use” in clause 6.5(1).

**[6] Clause 6.12 Affordable housing**

Omit “subclauses (3)–(6)” from clause 6.12(2). Insert instead “subclauses (2A)–(6A)”.

**[7] Clause 6.12(2A)**

Insert after clause 6.12(2)—

(2A) The affordable housing levy contribution for development in Area 4 is 3.5% of the relevant floor area that exceeds the floor space achieved by applying a floor space ratio of 1.76:1.

**[8] Clause 6.12(6A)**

Insert after clause 6.12(6)—

(6A) The affordable housing levy contribution for development on land in the Rhodes West affordable housing contribution area, except for Area 4, is 5% of the relevant floor area that exceeds the floor space achieved by applying the maximum floor space ratio that was shown for the land on the Floor Space Ratio Map immediately before the commencement of this subclause.

**[9] Clause 6.12(10), definition of “affordable housing contribution area”**

Insert after paragraph (e)—

(f) Rhodes West affordable housing contribution area.

**[10] Clause 6.12(10)**

Insert in alphabetical order—

*Area 4* means the land identified as “Area 4” on the Additional Local Provisions Map.

**[11] Part 7**

Insert after Part 6—

**Part 7 Rhodes Precinct**

**7.1 Objectives of Part**

The objectives of this Part are as follows—

- (a) to achieve the highest standard of architectural and urban design in the Rhodes Precinct by ensuring that new development exhibits design excellence, including excellence in sustainably managing the environmental impact of the development on existing and future populations,
- (b) to allow for a mix of land uses that will—
  - (i) provide an appropriate balance between residential, retail, commercial and other land uses within the Rhodes Precinct, and
  - (ii) encourage the provision of a range of services and facilities to help meet the needs of the population and users of the Rhodes Precinct, and
  - (iii) generate employment in the Rhodes Precinct, and
  - (iv) establish a significant new people-oriented public domain and foreshore area and other vibrant public plazas and public spaces,
- (c) to support growth in the Rhodes Precinct by ensuring the provision of appropriate infrastructure that is sensitive to environmental impacts.

**7.2 Design excellence in Rhodes Precinct**

- (1) This clause applies to development in the Rhodes Precinct involving the erection of a new building, or external alterations to an existing building, that is, or as a result of the development will be, higher than 12 metres or 3 storeys, or both.
- (2) Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.
- (3) 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,
  - (c) whether the development detrimentally impacts on view corridors,
  - (d) how the development addresses the following matters—
    - (i) the requirements of a development control plan made by the Council and applying to the land on the commencement of this clause,
    - (ii) the suitability of the land for development,
    - (iii) existing and proposed uses and use mix,
    - (iv) heritage issues and streetscape constraints,

- (v) 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,
  - (vi) bulk, massing and modulation of buildings,
  - (vii) street frontage heights,
  - (viii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
  - (ix) the achievement of the principles of ecologically sustainable development,
  - (x) pedestrian, cycle, vehicular and service access, circulation and requirements,
  - (xi) the impact on, and any proposed improvements to, the public domain,
  - (xii) achieving appropriate interfaces at ground level between the building and the public domain,
  - (xiii) excellence and integration of landscape design.
- (4) Development consent must not be granted to development to which this clause applies unless—
- (a) an architectural design competition is held in relation to the development, and
  - (b) the consent authority takes into account the results of the architectural design competition.
- (5) Subclause (4) does not apply—
- (a) to development that relates to a building not higher than 28 metres or 8 storeys, or both, or
  - (b) to development involving only alterations or additions to an existing building, or
  - (c) in relation to an application to modify an existing development consent, or
  - (d) if the NSW Government Architect certifies in writing that an architectural design competition need not be held.
- (6) If subclause (4) does not apply, development consent must not be granted unless—
- (a) a design review panel reviews the development, and
  - (b) the consent authority takes into account the findings of the design review panel.
- (7) In this clause—
- architectural design competition** means a competitive process conducted in accordance with the draft *Government Architect's Design Excellence Competition Guidelines* published by the NSW Government Architect in May 2018.
- design review panel** means a panel of 3 or more persons—
- (a) established by the consent authority for the purposes of this clause, and
  - (b) approved by the NSW Government Architect.

### 7.3 Overshadowing of public places in Rhodes Precinct

- (1) Development consent must not be granted to development that results in a building causing additional overshadowing of a public place identified on the Sun Access Protection Map during the time specified for the public place in the following table—

<b>Public place</b>	<b>Time during which additional overshadowing prohibited</b>
Brays Bay Reserve	8:30am–12:30pm
King George V Park	8:30am–12:30pm
Leeds Street Open Space	8:30am–12:30pm
McIlwaine Park Primary Zone	8:30am–2pm
McIlwaine Park Secondary Zone	8:30am–12:30pm
Peg Patterson Park	Midday–2pm
Uhrs Reserve	8:30am–12:30pm
Union Square	9am–2pm

- (2) Subclause (1) does not prevent the granting of development consent to development that results in a building in Area 4 causing additional overshadowing of Union Square between 1:30pm and 2pm.
- (3) Development results in a building causing additional overshadowing of a public place if the overshadowing of the public place during the specified times is greater after the development is carried out than the overshadowing of the public place during the specified times caused by buildings on the commencement of this clause.
- (4) Development consent must not be granted to development that results in a building causing overshadowing of more than half of Leeds Street Open Space between 12:30pm and 3pm.
- (5) In this clause—  
*Area 4* means the land identified as “Area 4” on the Additional Local Provisions Map.

### 7.4 Minimum non-residential floor space in Rhodes Precinct

- (1) The minimum percentage of the gross floor area of a building on land in the Rhodes Precinct that must be used for non-residential purposes for development consent to be granted to development in relation to the building is specified on the Non-residential Floor Space Map.
- (2) In this clause—  
*non-residential purposes* means purposes other than the following—
- residential accommodation, excluding seniors housing,
  - serviced apartments, but only if there are, or as a result of the development will be, fewer than 50 serviced apartments on the land,
  - car parks,
  - telecommunications facilities.

**7.5 Minimum building separation and maximum floor areas above building podiums in Rhodes Precinct**

- (1) Development consent must not be granted to development that results in a building in the Rhodes Precinct being separated from another building by less than—
  - (a) for a building higher than 14 storeys but not higher than 20 storeys—24 metres, or
  - (b) for a building higher than 20 storeys—40 metres.
- (2) Development consent must not be granted to development that results in the gross floor area of a floor of a building in the Rhodes Precinct exceeding 750 square metres.
- (3) This clause does not apply in relation to the podium of a building in the Rhodes Precinct.

**7.6 Maximum height of building podiums in Rhodes Precinct**

Development consent must not be granted to development that results in the podium of a building in the Rhodes Precinct being higher than 16 metres.

**7.7 Maximum number of dwellings in Rhodes Precinct**

Development consent must not be granted to development that results in more than 3,000 dwellings in the Rhodes Precinct.

**7.8 Maximum number of car parking spaces for uses of land in Rhodes Precinct**

- (1) Development consent must not be granted to development that results in the number of car parking spaces provided in connection with a use of land in the Rhodes Precinct exceeding the maximum specified in this clause.
- (2) The maximum number of car parking spaces is as follows—
  - (a) for commercial premises other than retail premises—1 space per 150 square metres of gross floor area used for that purpose,
  - (b) for retail premises other than restaurants or cafes—1 space per 100 square metres of gross floor area used for that purpose,
  - (c) for restaurants or cafes—1 space per 150 square metres of gross floor area used for that purpose,
  - (d) for dual occupancies, multi dwelling housing, residential flat buildings and shop top housing—
    - (i) 0.1 spaces per studio dwelling, and
    - (ii) 0.3 spaces per dwelling with 1 bedroom, and
    - (iii) 0.7 spaces per dwelling with 2 bedrooms, and
    - (iv) 1 space per dwelling with 3 or more bedrooms, and
    - (v) 1 visitor car parking space per 20 dwellings.
- (3) If the total number of car parking spaces under this clause is not a whole number, the total is to be rounded down to the next whole number.
- (4) In this clause—

***car parking space*** means a space for the parking of motor vehicles that is ancillary to another land use, but does not include a place primarily used for—

  - (a) the washing of vehicles, or
  - (b) the loading or unloading of goods, or

(c) the storage of bicycles.

**visitor car parking space** means a car parking space for use by visitors to, and not residents of, a building.

#### 7.9 Water reticulation systems for buildings in Rhodes Precinct

Development consent must not be granted to the erection of a building in the Rhodes Precinct unless the building utilises a dual water reticulation system containing pipes for potable water and recycled water for all internal and external water uses.

#### 7.10 Site area of proposed development in Rhodes Precinct includes dedicated land

The site area of proposed development on land in the Rhodes Precinct is, for the purpose of applying a floor space ratio under clause 4.5, taken to include land that—

- (a) is dedicated to the Council for a public purpose or otherwise set aside as publicly accessible open space or as a pedestrian link, and
- (b) would have been part of the site area if it had not been dedicated or set aside.

#### 7.11 Additional floor space for certain BASIX affected buildings in Rhodes Precinct

- (1) A BASIX affected building on land in the Cavell Avenue Character Area, Leeds Street Character Area or Station Gateway East Character Area may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map by 5% if the building—
  - (a) exceeds the BASIX commitment for energy for the building by at least 15 points, and
  - (b) exceeds the BASIX commitment for water for the building by at least 20 points.
- (2) In this clause—

**BASIX affected building** has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.

**BASIX commitment** means a commitment set out in a BASIX certificate within the meaning of the *Environmental Planning and Assessment Regulation 2000*.

#### 7.12 Building frontages in Cavell Avenue Character Area

- (1) This clause applies to a part of a building in the Cavell Avenue Character Area that is within 4 metres of the building's frontage to a road (the **front part of the building**).
- (2) Development consent must not be granted to development that results in the front part of the building exceeding a building height of 10 metres.
- (3) Development consent must not be granted to development for the purposes of a dwelling in the front part of the building unless the dwelling has an individual entrance from the road.

#### 7.13 Additional building height for certain land in Cavell Avenue Character Area

A building on land in the Cavell Avenue Character Area that is between Blaxland Avenue and Cavell Avenue may exceed the maximum building height shown for the land on the Height of Buildings Map by 5 metres if



development in connection with the building results in the opening of a public road that connects Blaxland Avenue and Cavell Avenue.

**7.14 Additional floor space for multi dwelling housing (terraces) in Cavell Avenue Character Area**

- (1) Multi dwelling housing (terraces) on land in the Cavell Avenue Character Area may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map by 5%.
- (2) In this clause—  
*multi dwelling housing (terraces)* means multi dwelling housing where all dwellings are attached and face, and are generally aligned along, 1 or more public roads.

**7.15 Additional floor space in Area 1**

- (1) A building on land in Area 1 may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map by 10% if development in connection with the building results in the provision of at least 2,000 square metres of publicly accessible open space.
- (2) In this clause—  
*Area 1* means the land identified as “Area 1” on the Additional Local Provisions Map.

**7.16 Additional floor space and overshadowing in Area 2**

- (1) The following provisions apply to a building on land in Area 2 that is used for purposes that include community facilities, emergency services facilities and seniors housing—
  - (a) the building may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map by 10%,
  - (b) clause 7.3(1) does not prevent the granting of development consent to development that results in the building causing additional overshadowing of Union Square between 9am and 9:30am.
- (2) In this clause—  
*Area 2* means the land identified as “Area 2” on the Additional Local Provisions Map.

**7.17 Additional permitted uses, building height and floor space in Area 3**

- (1) Development for the following purposes is permitted with development consent in Area 3—
  - (a) health services facilities,
  - (b) office premises.
- (2) The maximum building height for a building in Area 3 is 36 metres.
- (3) The maximum floor space ratio for a building in Area 3 is 2.3:1.
- (4) Development consent must not be granted to development that results in a building on land in Area 3 exceeding the maximum building height shown for the land on the Height of Buildings Map, or exceeding the maximum floor space ratio shown for the land on the Floor Space Ratio Map, unless—
  - (a) the site area of the development is at least 6,000 square metres, and
  - (b) at least 26% of the gross floor area of all buildings in Area 3 is used for the following purposes—

- (i) centre-based child care facilities,
- (ii) community facilities,
- (iii) health services facilities,
- (iv) office premises,
- (v) respite day care centres,
- (vi) seniors housing.

(5) In this clause—

**Area 3** means the land identified as “Area 3” on the Additional Local Provisions Map.

#### **7.18 Additional permitted uses in Leeds Street Character Area**

Development for the purposes of residential flat buildings is permitted with development consent in the Leeds Street Character Area.

#### **7.19 Minimum site area in Leeds Street Character Area**

(1) The minimum site area for development in the Leeds Street Character Area is specified in the following table—

<b>Part of Leeds Street Character Area</b>	<b>Minimum site area</b>
Site A	11,675 m <sup>2</sup>
Site B	12,000 m <sup>2</sup>
Site C	9,000 m <sup>2</sup>
Site D	10,000 m <sup>2</sup>

(2) In this clause—

**Site A** means the land identified as “Site A” on the Additional Local Provisions Map.

**Site B** means the land identified as “Site B” on the Additional Local Provisions Map.

**Site C** means the land identified as “Site C” on the Additional Local Provisions Map.

**Site D** means the land identified as “Site D” on the Additional Local Provisions Map.

#### **7.20 Minimum lot size for shop top housing in Station Gateway East Character Area**

Development consent must not be granted to development for the purposes of shop top housing on a lot in the Station Gateway East Character Area unless the area of the lot is equal to or greater than 1,500 square metres.

#### **7.21 Seniors housing in Station Gateway East Character Area**

Despite clause 6.5(3), an active street frontage is not required for seniors housing in the Station Gateway East Character Area.

### **[12] Dictionary**

Insert in alphabetical order—

**Additional Local Provisions Map** means the Canada Bay Local Environmental Plan 2013 Additional Local Provisions Map.

***Cavell Avenue Character Area*** means the land identified as “Cavell Avenue Character Area” on the Key Sites Map.

***Key Sites Map*** means the Canada Bay Local Environmental Plan 2013 Key Sites Map.

***Leeds Street Character Area*** means the land identified as “Leeds Street Character Area” on the Key Sites Map.

***Non-residential Floor Space Map*** means the Canada Bay Local Environmental Plan 2013 Non-residential Floor Space Map.

***Rhodes Precinct*** means the land identified as “Rhodes Precinct” on the Key Sites Map.

***Station Gateway East Character Area*** means the land identified as “Station Gateway East Character Area” on the Key Sites Map.

***Sun Access Protection Map*** means the Canada Bay Local Environmental Plan 2013 Sun Access Protection Map.

## **Schedule 2      Amendment of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

### **[1]    Clause 18 Development control in the waterways**

Insert after clause 18(2)—

- (3) Despite subclause (1)(c), development for the purposes of swimming pools is permitted with development consent in Brays Bay.

### **[2]    Clause 41 Requirement for master plans**

Omit clause 41(4). Insert instead—

- (4) A master plan does not have to be prepared for the following unless the Minister so directs—
  - (a) the City Foreshores Area or Garden Island, as shown on the Strategic Foreshore Sites Map,
  - (b) the Leeds Street Character Area within the meaning of *Canada Bay Local Environmental Plan 2013*.