



New South Wales

State Environmental Planning Policy Amendment (Blackwattle Bay Precinct) 2022

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*.

ANTHONY ROBERTS, MP
Minister for Planning

State Environmental Planning Policy Amendment (Blackwattle Bay Precinct) 2022

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1 Name of Policy

This Policy is *State Environmental Planning Policy Amendment (Blackwattle Bay Precinct) 2022*.

2 Commencement

This Policy commences on 9 June 2023 and is required to be published on the NSW legislation website.

3 Repeal of Policy

This Policy is repealed at the beginning of the day following the day on which this Policy commences.

4 Maps

The maps adopted by the following environmental planning instruments are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Policy—

- (a) *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 10,
- (b) *State Environmental Planning Policy (Planning Systems) 2021*, Chapter 2,
- (c) *State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021*, Chapters 2 and 4,
- (d) *Sydney Local Environmental Plan 2012*.

Schedule 1 Amendments

1.1 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

[1] Clause 2.125 Specified development

Omit clause 2.125(1). Insert instead—

- (1) This Subdivision applies to the following land—
 - (a) land identified as “Circular Quay”, “Darling Harbour” or “The Rocks” on the Sydney Harbour Foreshore Sites Map,
 - (b) Lots 1 and 3, DP 876516, being the Overseas Passenger Terminal at Circular Quay,
 - (c) land identified as “Sydney Olympic Park Site” on the State Significant Development Sites Map,
 - (d) land identified as “Barangaroo Site” on the State Significant Development Sites Map,
 - (e) land identified as “Blackwattle Bay Precinct Site” on the State Significant Development Sites Map.

[2] Clause 2.125(3)

Insert after clause 2.125(2)—

- (3) In this clause—

public domain has the same meaning as in the *Place Management NSW Act 1998*.

State Significant Development Sites Map has the same meaning as in *State Environmental Planning Policy (Planning Systems) 2021*, Chapter 2.

Sydney Harbour Foreshore Sites Map has the same meaning as in *State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021*, Chapter 2.

1.2 State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021

[1] Section 2.6A

Insert after section 2.6—

2.6A Savings provisions

- (1) A development application or an application for a complying development certificate lodged, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Blackwattle Bay Precinct) 2022* must be determined as if that Policy had not commenced.
- (2) Development may continue as if *State Environmental Planning Policy Amendment (Blackwattle Bay Precinct) 2022* had not commenced if—
 - (a) the carrying out of the development started before the commencement of that Policy, and
 - (b) the development was, immediately before the commencement of that Policy, development specified in section 2.9.

[2] Sections 2.8(4) and 2.9(2)

Omit “, Rozelle Bay and Blackwattle Bay” wherever occurring.

Insert instead “and Rozelle Bay”.

1.3 State Environmental Planning Policy (Transport and Infrastructure) 2021

[1] Section 2.69 Land to which Division applies

Omit “*State Environmental Planning Policy (State and Regional Development) 2011*”.

Insert instead “*State Environmental Planning Policy (Planning Systems) 2021, Chapter 2*”.

[2] Section 2.69(e)

Insert after section 2.69(d)—

(e) Blackwattle Bay Precinct Site,

[3] Section 2.70A

Insert after section 2.70—

2.70A Savings provision

A development application or an application for a complying development certificate lodged, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Blackwattle Bay Precinct) 2022* must be determined as if that Policy had not commenced.

1.4 Sydney Local Environmental Plan 2012

[1] Clause 1.8A Savings provisions relating to development applications

Omit clause 1.8A(4). Insert after clause 1.8A(3)—

(4) A development application made, but not finally determined, before 1 July 2021 must be determined as if *Sydney Local Environmental Plan 2012 (Amendment No 52)* had not commenced if the application relates to development—

(a) on land in Central Sydney, or

(b) on residual land within the meaning of clause 7.13.

[2] Clause 1.8A(7)

Insert after clause 1.8A(6)—

(7) A development application or an application for a complying development certificate made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Blackwattle Bay Precinct) 2022* must be determined as if that Policy had not commenced.

[3] Clause 6.18 Overshadowing of certain public places

Insert at the end of clause 6.18(2), table—

Bank Street Park	All year	10am–2pm
Sydney Fish Market Urban Park	21 June	Midday–2pm
Wentworth Park	All year	10am–2pm

Glebe Foreshore Parks

21 June

9am–3pm

[4] Part 6, Division 7

Insert after Division 6—

Division 7 Blackwattle Bay Precinct

6.67 Preliminary

(1) In this Division—

Blackwattle Bay Design Guidelines means the *Blackwattle Bay Design Guidelines*, published by the Department in December 2022 and available on the NSW Planning Portal.

Blackwattle Bay Precinct means the land identified as “Blackwattle Bay Precinct” on the Locality and Site Identification Map.

- (2) Clauses 6.21D(3), 7.6 and 7.20 do not apply to development in the Blackwattle Bay Precinct.
- (3) Part 7, Division 1 does not apply to development in the Blackwattle Bay Precinct to the extent to which the Division imposes development standards in relation to car parking spaces for commercial premises.

6.68 Erection of buildings

- (1) This clause applies to development involving the erection of a building in the Blackwattle Bay Precinct.
- (2) Development consent must not be granted to development on the land unless the consent authority is satisfied—
- (a) the development is consistent with the Blackwattle Bay Design Guidelines, and
 - (b) the development will not result in the total gross floor area exceeding—
 - (i) for all buildings on land in Area 16—7,132m², and
 - (ii) for all buildings on land in Area 17—129,291m², and
 - (c) the percentage of the total gross floor area of the building that will be used for non-residential purposes is at least the following—
 - (i) for a building in Area 12—35%,
 - (ii) for a building in Area 13—30%,
 - (iii) for a building in Area 14—41%,
 - (iv) for a building in Area 15 or Area 16—100%,
 - (v) for a building in Area 17—43%, and
 - (d) appropriate measures will be taken to ensure the building is capable of achieving—
 - (i) a Green Star building rating with a “credit achievement” in Credit 22: Energy Use, or
 - (ii) a standard the consent authority is satisfied is equivalent to the standard specified in subparagraph (i), and
 - (e) public utility infrastructure essential for the development is available, or adequate arrangements have been made to make the infrastructure available when it is required, and

- (f) the development will not result in the number of car parking spaces exceeding 1 space for every 1,100m² of gross floor area used for business premises and office premises in the Blackwattle Bay Precinct.
- (3) In this clause—
 - Area* means an Area shown on the Floor Space Ratio Map.
 - Green Star building rating* means a certified sustainability rating given by or on behalf of the Green Building Council of Australia.
 - public utility infrastructure* includes infrastructure for the following—
 - (a) the supply of water,
 - (b) the supply of electricity,
 - (c) the disposal and management of sewage.

6.69 Foreshore promenade

- (1) The objective of this clause is to allow greater densities adjacent to the Blackwattle Bay foreshore promenade in order to deliver—
 - (a) a world class foreshore walk that is in the public domain, and
 - (b) public through site links from Bank Street through to the foreshore.
- (2) This clause applies to the following land at Pyrmont in the Blackwattle Bay Precinct—
 - (a) Lots 7–11, DP 803160, 21–29 Bank Street,
 - (b) Lots 20–22, DP 811844, 31–35 Bank Street,
 - (c) Lots 24 and 25, DP 815847, 37–39 Bank Street,
 - (d) Lot 100, DP 836204, 41–45 Bank Street.
- (3) A building on land to which this clause applies may exceed the floor space ratio shown for the land on the Floor Space Ratio Map by an amount to be determined by the consent authority if the floor space ratio of the building is no more than—
 - (a) for a building in Area 12—3.92:1,
 - (b) for a building in Area 13—4.44:1,
 - (c) for a building in Area 14—3.18:1,
 - (d) for a building in Area 15—4:1.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied—
 - (a) the development is consistent with—
 - (i) the objectives of this clause, and
 - (ii) the Blackwattle Bay Design Guidelines, and
 - (b) the development includes—
 - (i) the construction of part of a public foreshore promenade on the Blackwattle Bay foreshore promenade, and
 - (ii) public access ways through site links between the buildings on the land to which this clause applies, and
 - (c) the part of the public foreshore promenade provided by the development will have—
 - (i) a minimum width of 10m that is clear of buildings and other permanent structures, and

- (ii) a minimum width of 10m located under the colonnades of buildings above the promenade.

- (5) In this clause—

Blackwattle Bay foreshore promenade means the land identified as “Foreshore Area” on the Locality and Site Identification Map.

6.70 Affordable housing

- (1) This clause applies to the erection of a new building with a gross floor area of more than 200m² on the following land at Pyrmont in the Blackwattle Bay Precinct—
 - (a) Lots 7–11, DP 803160, 21–29 Bank Street,
 - (b) Lots 20–22, DP 811844, 31–35 Bank Street,
 - (c) Lots 24 and 25, DP 815847, 37–39 Bank Street,
 - (d) Lot 100, DP 836204, 41–45 Bank Street,
 - (e) Lot 2, DP 827434, Lot 1, DP 836351, Lot 1, 734622, Lot 1, DP 74155, Lots 1 and 2, DP 125720 and Lot 17, DP 1027254, 56–60 Pyrmont Bridge Road.
- (2) Subclause (1) applies—
 - (a) whether the floor area was in existence before, or is created after, the commencement of this clause, and
 - (b) whether or not the floor area replaces an existing area.
- (3) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring an affordable housing levy contribution equivalent to 7.5% of the total floor area of the building.
- (4) A condition imposed under this clause must permit a person to satisfy the contribution by way of one or both of the following—
 - (a) a dedication, in favour of the Council, of land comprising 1 or more dwellings, each having a gross floor area of at least 35m² but no more than 90m²,
 - (b) a monetary contribution paid to the Council.
- (5) A monetary contribution must be calculated in accordance with the *City of Sydney Affordable Housing Program* adopted by the Council on 24 August 2020.
- (6) The demolition of a building, or a change in the use of land, does not give rise to a claim for a refund of a contribution.
- (7) Clause 7.13 does not apply to development to which this clause applies.

6.71 General industries prohibited

- (1) This clause applies to land in the Blackwattle Bay Precinct.
- (2) Development consent must not be granted to development for the purposes of general industries.

[5] Schedule 1 Additional permitted uses

Omit clause 4.

[6] Dictionary

Insert in alphabetical order—

Sydney Fish Market means the commercial premises used as, or in connection with, the major fish market located on the land identified as “Sydney Fish Market” on the Land Zoning Map, and includes other commercial premises and associated tourist facilities forming part of the mixed use development on the land.