



New South Wales

Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999

under the

Environmental Planning and Assessment Act 1979

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

ANDREW REFSHAUGE, M.P.,
Minister for Urban Affairs and Planning

Explanatory note

The object of this Regulation is to enable the approved scheme that controls the development of the Sydney Cove Development Area to be varied by the Minister after public notification and consideration of public submissions, pending the making of an environmental planning instrument for that Area.

The Regulation is made under section 157 of, and clauses 1 and 29 (5) of Schedule 6 to, the *Environmental Planning and Assessment Act 1979*.

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Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999*.

2 Definitions

In this Regulation:

approved scheme means the approved scheme for the purposes of the *Sydney Cove Redevelopment Authority Act 1968*, as that scheme was in force immediately before 10 July 1998, and as amended in accordance with this Regulation.

Director-General means the Director-General of the Department of Urban Affairs and Planning.

Sydney Cove Development Area has the same meaning as ***development area*** had in the *Sydney Cove Redevelopment Authority Act 1968* immediately before its repeal.

the public domain means land available for public use and includes streets, lanes, squares, boardwalks, roads, playgrounds, parks, open space, pedestrian walkways and the like.

3 Notes

The explanatory note and table of contents do not form part of this Regulation.

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Clause 4 Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999

Part 2 Amendment of approved scheme

Part 2 Amendment of approved scheme

4 Application for variation to approved scheme

- (1) If a person proposes to carry out development on land within the Sydney Cove Redevelopment Area and the proposed development does not comply in all respects with the approved scheme, the person may apply to the Minister for a variation to the approved scheme that the person considers necessary to be made to enable development consent to be granted to the proposed development.
- (2) The application must:
 - (a) describe the respects in which the proposed development does not comply with the approved scheme, and
 - (b) set out the reasons for the variation to the approved scheme for which the person is applying, and
 - (c) address the matters referred to in clause 9 (2) in relation to which the Minister must form an opinion before making a variation to the approved scheme.

5 Decision as to preparation of draft variation

- (1) On receipt of an application under clause 4, the Director-General is to decide whether or not to prepare a draft variation to the approved scheme that would enable development consent to be granted to the proposed development.
- (2) The Director-General may, with the concurrence of the Minister, decide not to prepare a draft variation if the Director-General is of the opinion that the variation will not conform with the general planning and design principles for the Sydney Cove Redevelopment Area.
- (3) The Director-General must notify the applicant of his or her decision.
- (4) If the applicant is notified that the Director-General has decided to prepare a draft variation to the approved scheme, the applicant is to make a development application for the proposed development if the applicant has not yet done so.

- (5) After the Director-General has notified the applicant that he or she has decided to prepare a draft variation to the approved scheme and if the Director-General has received a development application for the proposed development, the Director-General is to prepare a draft variation to the approved scheme that will enable development consent to be granted to the proposed development.

6 Public notice and exhibition of draft variation

A draft variation to the approved scheme must be publicly exhibited with the development application to which it relates and notice of the draft variation must be included in any notice given of the development application.

7 Inspection of, and submissions concerning draft variation

- (1) During the period for which an application under clause 4 and a draft variation to the approved scheme are publicly exhibited, any person:
- (a) may inspect, and make extracts from or copies of, the draft variation to the approved scheme, and
 - (b) may make a written submission to the Minister concerning the draft variation.
- (2) A submission by way of objection must set out the grounds of the objection.

8 Public notice of development that is not designated or advertised development

- (1) If the development the subject of an application under clause 4 is not designated development or advertised development, the application must be publicly exhibited and notice must be given of it as if:
- (a) the development were development to which clause 65 of the *Environmental Planning and Assessment Regulation 1994* applied, and
 - (b) the period for which the application may be inspected is the period of 30 days commencing on the day after the day on which the published notice is first published in a newspaper,
- subject to subclause (2).

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Part 2 Amendment of approved scheme

- (2) The Director-General may modify the application of clause 65 of the *Environmental Planning and Assessment Regulation 1994* in relation to any particular application in such manner as the Director-General thinks fit.

9 Variation of approved scheme

- (1) The Minister is to consider all submissions concerning a draft variation to the approved scheme made during the period of public exhibition of the draft variation.
- (2) If, after considering those submissions, the Minister is of the opinion that the draft variation, if made:
 - (a) will not permit development that will adversely affect:
 - (i) development on adjoining land, or
 - (ii) the heritage significance of buildings, structures or sites in the locality, or
 - (iii) the quality of the public domain in the locality, and
 - (b) will not permit development that will have an adverse impact on the natural or built environment or an adverse social or economic impact in the locality, and
 - (c) will conform with the general planning and design principles for the Sydney Cove Redevelopment Area,

the Minister may make the variation to the approved scheme in accordance with the draft variation or make the draft variation with such alterations as the Minister thinks fit.

- (3) The Minister may make a variation to the approved scheme in accordance with this clause, whether or not development consent is granted to the application in relation to which the variation was submitted.