



New South Wales

State Environmental Planning Policy No 56—Sydney Harbour Foreshores and Tributaries (Amendment No 1)

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* in accordance with the recommendation made by the Minister for Urban Affairs and Planning.

CRAIG KNOWLES, M.P.,
Minister for Urban Affairs and Planning.

1 Name of Policy

This Policy is *State Environmental Planning Policy No 56—Sydney Harbour Foreshores and Tributaries (Amendment No 1)*.

2 Principal Policy

In this Policy, *State Environmental Planning Policy No 56—Sydney Harbour Foreshores and Tributaries* is referred to as the Principal Policy.

3 Aims, objectives etc

This Policy aims to amend the Principal Policy:

(a) to ensure:

- (i) that the public are able to have unrestricted access to, and use of, the foreshore public domain, and

- (ii) that public ownership of the existing foreshore public domain is retained, and
- (iii) that, wherever possible, foreshore public domain that is privately owned is placed in public ownership, and
- (b) to make further provision concerning master plans, and
- (c) to ensure that certain provisions of *State Environmental Planning Policy No 55—Remediation of Land* do not override the requirements for master plans in the Principal Policy.

4 Land to which this Policy applies

This Policy applies to the whole of the land to which the Principal Policy applies.

5 Amendment of Principal Policy

The Principal Policy is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 5)

[1] Clause 3 Definitions

Insert at the end of the definition of *the map* in clause 3 (1):

, as amended by the maps marked as follows which are deposited in the Head Office of the Department of Urban Affairs and Planning:

Sheet for foreshore land marked “Guiding Principles—Foreshore Land (Amendment No 1)”

Schedule 1—Map 1—Inner Harbour (Amendment No 1)

Schedule 2—Map 15—Goodyear Pty Ltd Site, Camellia (Amendment No 1)

[2] Clause 5 Relationship to other environmental planning instruments

Insert after clause 5 (2):

(3) Clause 8 (1) of *State Environmental Planning Policy No 55—Remediation of Land* does not derogate from or affect the provisions of this Policy concerning master plans.

[3] Clause 7 Guiding principles

Omit clause 7 (b). Insert instead:

- (b) the fundamental importance of the need for land made available for public access, or use, on the foreshore to be in public ownership wherever possible, particularly land that is within the foreshore area as defined in the *Sydney Harbour Foreshore Authority Act 1998*,
- (b1) if public ownership of foreshore land is not possible, the use of appropriate tenure mechanisms to safeguard public access to, and public use of, that land and to ensure the rights of public authorities to determine the design of, use of, and amenities on, the land over time.

[4] Clause 11 Requirement for master plans

Insert after clause 11 (3):

- (4) Without limiting subclause (2), the Minister may waive compliance with the requirements of subclause (1) if:
 - (a) the development relates to only part of a strategic foreshore site, and
 - (b) any of the grounds for waiver under subclause (2) are satisfied, and
 - (c) the Minister is satisfied that the waiver will not compromise the application of the guiding principles in Part 2.
- (5) This clause does not apply to minor development specified in Schedule 3.

[5] Clause 14 requirement for master plans

Insert after clause 14 (2):

- (3) Without limiting subclause (2), the Minister may waive compliance with the requirements of subclause (1) if:
 - (a) the development relates to only part of a strategic foreshore site, and
 - (b) any of the grounds for waiver under subclause (2) are satisfied, and
 - (c) the Minister is satisfied that the waiver will not compromise the application of the guiding principles in Part 2.
- (4) The Minister is to notify the relevant council, in writing, of a waiver under subclause (3).
- (5) This clause does not apply to minor development specified in Schedule 3.

[6] Part 4A

Insert after Part 4:

Part 4A Subdivision of certain land

15A hand to which this Part applies

- (1) This Part applies to land to which this Policy applies that is identified as public domain or future public domain in an environmental planning instrument or in a master plan adopted under the provisions of an environmental planning instrument.
- (2) In this clause, **public domain** means land available for public use and includes streets, lanes, squares, boardwalks, roads, playgrounds, parks, open space, stairs, pedestrian walkways and the like.

15B Control of subdivision

Development consent must not be granted to the subdivision of, or affecting, land to which this Part applies, including subdivision by means of a strata plan or a strata plan of subdivision within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986* or a plan registrable under the *Community Land Development Act 1989*, unless adequate provision is made:

- (a) for unrestricted public access to that land and, via that land, to the waterfront, and
- (b) for unrestricted public use of that land, and
- (c) to ensure the right of the relevant public authority to determine the design of, the amenities on, and the use of, the land over time.

15C Relationship with Parts 3 and 4

This Part applies in addition to Parts 3 and 4.

[7] Clause 18

Omit the clause. Insert instead:

18 Requirement to prepare master plan

- (1) A master plan must be prepared for the whole of a strategic foreshore site, except as provided by this clause.
- (2) The Minister may direct the relevant council, in writing, that a separate master plan is required for a specified part of a strategic foreshore site.
- (3) Such a direction must not be given unless the Minister is satisfied that the adoption of a master plan for the specified part will not compromise the application of the guiding principles in Part 2.

[8] Clause 19 Preparation of master plans

Insert “, the relevant council or the Director-General” after “concerned” in clause 19 (1).

[9] Clause 19 (3) and (4)

Insert after clause 19 (2):

- (3) The requirement for consultation under subclause (2) does not apply if the draft master plan is prepared by the relevant council or the Director-General.
- (4) If a draft master plan is prepared by or on behalf of the relevant council or the Director-General, the relevant council or the Director-General is required to consult with the owner or lessee of the land concerned.

[10] Clause 20 Consultation

Insert “, the relevant council or the Director-General” after “concerned” in clause 20 (1).

[11] Clause 20 (2)

Insert “(other than a draft master plan prepared by the Director-General)” after “plan” where firstly occurring.

[12] Clause 21 Adoption of master plans

Omit “forwarded” from clause 21 (1).
Insert instead ”submitted”.

[13] Clause 21 (3A)

Insert after clause 21 (3):

- (3A) If the relevant council has rejected, or has not adopted, a draft master plan in relation to land described in Schedule 2 within 3 months after the date on which the draft master plan was submitted to it for adoption, the Minister may adopt the draft master plan.
- (3B) The Minister must seek the views of the relevant council concerning the draft master plan before the Minister adopts it.

[14] Clause 21 (4)

Insert “or by the Minister under subclause (3A)” after “authority”.

[15] Schedule 1 State significant development

Omit “Schedule 1—Map 1—Inner Harbour”.
Insert instead “Schedule 1—Map 1—Inner Harbour (Amendment No 1)”.

[16] Schedule 2 Sites of strategic significance

Omit “Schedule 2—Map 15—Goodyear Pty Ltd Site, Camellia”.
Insert instead ”Schedule 2—Map 15—Goodyear Pty Ltd Site. Camellia (Amendment No 1)”.

[17] Schedule 3

Insert after Schedule 2:

Schedule 3 Minor development

(Clauses 11 and 14)

Development is minor development if it comprises any one or more of the following:

- (a) a change of use of a building if the change of use does not involve any increase of the total floor space of the building,
- (b) the provision and use of outdoor seating or tables or any item of street furniture (including benches, bollards, council information signs, public artwork installations, street lights, and telephone kiosks) on a footpath, in a plaza, or other public place,
- (c) the erection of a sign on a building, if the sign does not exceed 2.5 square metres in area and is located so that no part of the sign extends above the ridge line of the building,
- (d) a temporary use for 2 years or less (not being a temporary use described in paragraph (f)) if the temporary use will have only minimal environmental impact of short duration,
- (e) the enclosure of a balcony,
- (f) the use of public domain for any temporary structure or event, including the exhibition of an art work, a performance, a festival or special promotion, if the proposed structure or event is to be installed for, or to take place over, a period of not more than 30 days, whether consecutive or not, in any period of 12 months,
- (g) any strata or stratum subdivision of land for the purposes of a development for which development consent has been granted and is in force,

- (h) the demolition of any building or other structure, other than a building or structure that is identified as a heritage item or an item of the environmental heritage in an environmental planning instrument or in a heritage study prepared by or on behalf of a consent authority,
- (i) the carrying out of any internal commercial or retail fitout,
- (j) any prescribed activity within the meaning of the *Environmental Planning and Assessment (Savings and Transitional) Regulation 1998*, or subdivision of land that requires development consent because of clause 29 of that Regulation,
- (k) any extension or other variation of operating or trading hours.