

1994—No. 557

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
SYDNEY REGIONAL ENVIRONMENTAL PLAN No. 22—
PARRAMATTA RIVER (AMENDMENT No. 1)**

NEW SOUTH WALES



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I, the Minister for Planning, in pursuance of section 51 of the Environmental Planning and Assessment Act 1979, make the regional environmental plan set out below.

ROBERT WEBSTER
Minister for Planning.

Sydney, 17 October 1994.

Citation

1. This plan may be called Sydney Regional Environmental Plan No. 22—Parramatta River (Amendment No. 1).

Land to which plan applies

2. This plan applies to all the land to which the main plan (as amended by this plan) applies, including Rodd Island.

Main plan

3. The main plan is Sydney Regional Environmental Plan No. 22—Parramatta River.

Aims and objectives

4. The aims and objectives of this plan are:

- (a) to extend the application of the main plan to include the island known as Rodd Island;

- (b) to make special provision in relation to the carrying out of development on that island, recognising its status as a national park; and
- (c) to clarify and improve the operation of some aspects of the operation of the main plan by removing anomalies which have been identified since its gazettal.

Amendments to main plan

5. The main plan is amended:

- (a) by inserting in clause 2 (1) (a) after the word “waterway” the words “, Rodd Island”;
- (b) by inserting in clause 2 (1) (b) and (c) after the word “foreshores” wherever occurring the words “and Rodd Island”;
- (c) by inserting at the end of clause 2 (1) (h) the following word and paragraph:
 - ; and
 - (i) to ensure that consistent guidelines are applied to the assessment of development of the Parramatta River and its foreshores and Rodd Island.
- (d) by inserting at the end of clause 2 (2) (e) (ii) the following subparagraph:
 - (iii) to preserve the natural foreshores of the Parramatta River and to ensure development does not detract from their natural character; and
- (e) by inserting in clause 2 (2) (f) (i) after the word “foreshores” the words “and Rodd Island,”;
- (f) by omitting from clause 3 (1) the matter “841” and by inserting instead the matter “1841”;
- (g) by omitting clause 3 (1) (b);
- (h) by inserting in clause 5 in alphabetical order the following definitions:
 - “**boardwalk**” means a structure providing pedestrian access which extends over or beyond the intertidal zone but is not intended to provide direct access to a vessel;
 - “**multiple mooring**” means an apparatus located on or in the waterway and used for restraining two or more vessels;
 - “**recreation facility**” means a building or place used exclusively for sporting or leisure activities, whether operated

for the purpose of gain or not and whether used for activities based on land or water;

“skid” means an inclined ramp used for the manual launching of small craft but does not include a slipway;

“tourist facility” means a building or place, such as a hotel or motel, used by tourists or holidaymakers for the purposes of holiday accommodation, sport or recreation and includes:

- (a) shops attached to or incorporated within the building or located at the place; and
- (b) other facilities servicing the needs of tourists and holidaymakers using the building or place,

but does not include a caravan park;

“waterfront access stairs” means stairs or a ramp for pedestrian access to the foreshore but not for the launching of or direct access to a vessel on the waterway;

- (i) by inserting after the word “residence” in the definition of **“boat shed”** in clause 5 the words “, and includes any skid used in connection with the building or other structure”;
- (j) by inserting before the word “but” in the definition of “marina” in clause 5 the words “and includes any single mooring or multiple mooring managed in association with the facility and in its vicinity,”;
- (k) by omitting from clause 5 the definitions of “mooring structure (large)” and “mooring structure (small)”;
- (l) by omitting from the definition of “public water transport facilities” in clause 5 the words “for public transport and which has a direct structural connection to the waterway” and by inserting instead the words “in connection with transporting the public by water”;
- (m) by omitting from clause 5 the definition of “single mooring” and by inserting instead the following definition:

“single mooring” means an apparatus located on or in the waterway and used for restraining one vessel;
- (n) by omitting the definition of “the Map” in clause 5 and by inserting instead the following definition:

“the map” means the map marked “Sydney Regional Environmental Plan No. 22—Parramatta River (Amendment No. 1)” deposited in the Head Office of the Department and a copy of which is deposited at the office of each consent authority;

- (o) by inserting in the definition of “water based restaurants and entertainment facilities” in clause 5 after the word “as” the words “clubs or”;
- (p) by omitting from clause 5 the definition of “waterway access stairs”;
- (q) by inserting at the end of clause 5 the following subclause:
 - (2) In this plan:
 - (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose; and
 - (b) a reference to land within a zone specified in the Table to clause 8B is a reference to land shown on the map in the manner indicated in clause 8A as the means of identifying land of the zone so specified.
- (r) by inserting after clause 5 the following clause:

Adoption of Model Provisions

5A. Nothing in this plan is to be construed as restricting or prohibiting or requiring development consent to be obtained for, or enabling the consent authority to restrict or prohibit or require development consent to be obtained for, the carrying out of development of any description specified in Schedule 1 to the Environmental Planning and Assessment Model Provisions 1980.

- (s) by inserting after clause 7 (1) (a) the following paragraph:
 - (a1) to advise a public authority or person carrying out certain development which does not require consent on relevant matters before such development is carried out; and
- (t) by inserting after clause 7 (3) the following subclause:
 - (3A) If a function of the Committee is not being exercised in respect of land within a local government area but is being exercised in respect of land within a national park, the Committee is to include an officer of the National Parks and Wildlife Service selected by the Director-General of National Parks and Wildlife instead of the member referred to in subclause (3) (c).
- (u) by omitting clause 8 and by inserting instead the following clause:

Consent authority

8. (1) The consent authority for land based development or land/water interface development is the council of the local government area in which or nearest to which the land on which it is proposed to carry out the development is situated, except as provided by subclauses (2) and (3).

(2) The consent authority for any such development is the Minister or the Director of Planning in a case in which:

- (a) the land on which it is proposed to carry out the development is within a local government area; and
- (b) another environmental planning instrument specifies the Minister or the Director as the consent authority for the same kind of development if it were proposed to be carried out on that land.

(3) The consent authority for any such development is also the Minister or the Director of Planning in a case (such as may occur when land/water interface development is proposed to be carried out wholly or partly in the waterway) in which:

- (a) the land on which it is proposed to carry out the development is not within a local government area; and
- (b) another environmental planning instrument specifies the Minister or the Director as the consent authority for the same kind of development if it were proposed to be carried out on the nearest land that is within a local government area.

(4) The consent authority for water based development proposed to be carried out on any land to which this plan applies is the Board.

(v) by inserting after Part 1 the following Part:

PART 1A—GENERAL RESTRICTIONS ON
DEVELOPMENT OF LAND

Zones indicated on the Map

8A. For the purposes of this plan, land to which this plan applies is within a zone specified below if the land is shown on the map in the manner specified below in relation to that zone:

Zone No. 8 (a) National Parks—edged heavy black and lettered “National Parks” on the map.

Zone objectives and development control table

8B. (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of zone” appearing in the matter relating to the zone.

(2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which:

- (a) development may be carried out without development consent; and
- (b) development may be carried out only with development consent; and
- (c) development is prohibited,

are specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.

(3) Except as otherwise provided by this plan, the consent authority must not grant consent to an application to carry out development on land to which this plan applies unless it is of the opinion that the carrying out of the development is generally consistent with the aims and objectives of this plan and of the zone within which the development is proposed to be carried out.

TABLE

Zone No. 8 (a)—National Parks

1. Objectives of zone

The objectives of this zone are:

- (a) to identify land reserved or dedicated under the National Parks and Wildlife Act 1974 as national parks, nature reserves, historic sites, State recreation areas, Aboriginal places and State game reserves; and
- (b) to allow for the management and appropriate use of that land as provided for in the National Parks and Wildlife Act 1974; and
- (c) to encourage visits to Rodd Island consistent with its natural attributes, cultural heritage and the facilities available; and
- (d) to facilitate development on Rodd Island compatible with the overall management strategy for the Sydney Harbour National Park.

2. Without development consent

Aids to navigation; anything authorised by the National Parks and Wildlife Act 1974.

3. Only with development consent

Nil.

4. Prohibited

Any purpose other than a purpose included in item 2.

- (w) by omitting the heading to Part 2 and by inserting instead the following heading:

PART 2—SPECIAL PROVISIONS

- (x) by inserting in clause 12 (6) after the word “Director” the word “—General”;
- (y) by inserting after clause 14 the following clauses:

Development on land in the waterway adjoining national parks

14A. Development for the purpose of anything authorised by the National Parks and Wildlife Act 1974 may be carried out without consent in the waterway adjoining a national park where the development spans mean high water mark and is part of development or an activity being carried out in the national park.

Development and activities in the vicinity of a national park

14B. A consent authority must not consent to the carrying out of development, and a public authority or other person must not carry out any development which does not require development consent, in any part of the waterway which, in the opinion of the consent authority, is likely to affect a national park unless it has given notice of the proposed development to the Director-General of National Parks and Wildlife and considered any comments of the Director-General on the proposal received within 30 days of the day on which notice of the proposal was given.

- (z) by inserting in clause 16 (2) after the word “moorings” the words “(other than single moorings that form part of a marina or a large marina)”;
- (aa) by inserting after clause 19 (1) the following subclause:
- (1A) The Director should refer a copy of any proposed development control plan for land to which this plan applies prepared by the Director to the Committee before it is adopted.
- (ab) by omitting from clause 20 the words “In determining a development application, the consent authority shall, in addition to the matters listed under section 90 (1) of the Act, consider such of the following matters as are of relevance to the development the subject of the application:” and by inserting instead the following words:

A consent authority must not consent to the carrying out of development unless it is satisfied that the proposed development is consistent with development of the land to which this plan applies in accordance with the objectives of this plan, and it has considered such of the following matters as are of relevance to the development:

- (ac) by omitting clause 20 (i) and (1);
- (ad) by omitting clause 20 (k) and by inserting instead the following paragraph:
 - (k) the Australian Standard AS 3962–1991—Guidelines for design of marinas;
- (ae) by inserting after clause 20 (o) the following paragraphs:
 - (p) whether the development will affect swimming in the locality;
 - (q) the provision of pedestrian access in the locality of the development and the impact of the development on existing pedestrian access;
 - (r) the importance of giving priority to onshore access to the foreshore and waterway rather than access by means of boardwalks;
 - (s) any development control plan prepared in respect of this plan or, until such a plan has been prepared, the “Design and Management Guidelines for Parramatta River” a copy of which is available at the Head Office of the Department.
- (af) by omitting clause 21 and by inserting instead the following clauses:

Preparation of plans of management

21. (1) A council may prepare a plan of management in respect of any land within the council’s area, whether or not in conjunction with the Board.

(2) The Board may prepare a plan of management in respect of any part of the waterway under its control, whether or not in conjunction with one or more councils.

(3) The format, structure and procedures for the preparation, public exhibition, approval, amendment and repeal of a plan of management is to be in accordance with Part 3 of the Environmental Planning and Assessment Regulation 1980 which is to be read as if

- (a) a reference to a development control plan were a reference to a plan of management;
 - (b) a reference to a local environmental plan were a reference to this plan; and
 - (c) a reference to the council were a reference to the council (if the plan relates to land within the council's area) or to the Board (if the plan relates to part of the waterway) or to both of them to the extent that they may agree to exercise or perform any function jointly.
- (4) A plan of management may, in respect of land to which it applies:
- (a) specify the types of recreational purposes for which the land may be used; and
 - (b) specify the siting of all buildings or structures on, and landscaping details in respect of, the land.
- (5) Before a plan of management is adopted and is made available for public inspection pursuant to subclause (6), a copy of it is to be referred to the Committee by the council or the Board and any representations made by the Committee in respect of the plan are to be considered.
- (6) A plan of management adopted in accordance with this clause is to be available for public inspection, without charge, at the offices of the relevant council or the Board (or, in the case of a joint plan, of the relevant council and the Board) during ordinary office hours.

Referral of development proposals which do not require development consent

- 21A. (1)** This clause applies to the following development:
- (a) development listed in Schedule 6; and
 - (b) development that requires the provision of services (including water, sewerage or stormwater systems).
- (2) Before carrying out any development to which this clause applies which does not require development consent, the person whether or not a public authority, carrying out the development must:
- (a) give notice of the proposed development:
 - * in the case of development listed in Schedule 6, to the Committee; or

* in the case of development that requires the provision of services, to the public authority responsible for providing the service concerned; and

(b) consider any matters concerning the development raised by those bodies which have been notified to the person not later than 30 days after the giving of such notice.

(ag) by inserting in clause 25 after the word “Director” the word “—General”;

(ah) by inserting after clause 27 the following clause:

Protection of archaeological significance of heritage items and their sites

27A. (1) Where a consent authority has received an application for consent to carry out development on the site of a heritage item or a site within a conservation area, the consent authority must not grant consent to the application unless:

(a) it has assessed whether the item or its site or the site within the conservation area has any potential archaeological significance and considered the likely impact of the proposed development on any potential archaeological significance of the item or its site or that site;

(b) in the case of a site of European heritage significance, any necessary excavation permit under the Heritage Act 1977 has been granted; and

(c) in the case of a site of an Aboriginal place as defined in the National Parks and Wildlife Act 1974 or an Aboriginal relic, the Director-General of National Parks and Wildlife has been notified of the proposal and any comments which have been received within 28 days of such notification have been considered.

(2) Nothing in this clause affects any obligation to obtain a permit or consent under Part 6 of the National Parks and Wildlife Act 1974.

(ai) by omitting from clause 28 the word “restricts” and by inserting instead the words “requires development consent to be obtained for”;

(aj) by inserting after clause 28A the following clause:

Development affecting heritage items

28B. A public authority or any other person must not carry out development which does not require development consent and

which is likely to affect significantly a heritage item unless it has sought the views of the Heritage Council on the proposed development and considered any comments of the Heritage Council notified to the public authority or person within 30 days of the day on which notice of the proposed development was given to the Heritage Council.

- (ak) by omitting from Schedule 1 paragraphs (b) and (c) and by inserting instead the following paragraphs:
 - (b) reclamation;
 - (c) sea walls;
 - (d) swimming pools;
 - (e) waterfront access stairs.
- (al) by inserting in Schedule 2 after paragraph (b) the following paragraph:
 - (b1) boardwalks;
- (am) by inserting in Schedule 2 after paragraph (g) the following paragraph:
 - (h) development for the purposes of any of the following, when carried out wholly or partly in waterway:
 - (i) dwellings of any type (including serviced apartments);
 - (ii) commercial premises;
 - (iii) tourist facilities;
 - (iv) shops and retailing;
 - (v) restaurants;
 - (vi) recreation facilities;
 - (vii) car parking.
- (an) by omitting from Schedule 3 paragraphs (j)–(q) and by inserting instead the following paragraphs:
 - (j) multiple moorings;
 - (k) single moorings;
 - (l) skids;
 - (m) slipways;
 - (n) swimming enclosures;
 - (o) wharves, jetties, pontoons.

- (ao) by omitting Schedule 6 and by inserting instead the following Schedule:

**SCHEDULE 6—DEVELOPMENT TO BE REFERRED
TO THE COMMITTEE**

(Cl. 18, 21A)

Development for the purpose of the following:

- (a) aviation facilities;
- (b) boardwalks;
- (c) boating industry facilities;
- (d) boat launching ramps;
- (e) boat lifts;
- (f) boatsheds;
- (g) charter and tourism boating facilities;
- (h) commercial port facilities;
- (i) dredging;
- (j) flora and fauna enclosures;
- (k) houseboats;
- (l) large marinas;
- (m) marinas;
- (n) multiple moorings;
- (o) public water transport facilities;
- (p) reclamation;
- (q) sea walls;
- (r) skids;
- (s) swimming enclosures;
- (t) water based restaurants and entertainment facilities;
- (u) wharves, jetties, pontoons;
- (v) a commercial, residential or retail use of land carried out below or partly below mean high water mark,

but not including any alterations or additions to any existing building or works which, in the opinion of the consent authority, are minor and do not, to any significant extent, change the scale, size or degree of the existing development.
