



New South Wales

State Environmental Planning Policy (Sydney Harbour Catchment) Amendment 2018

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*.

ANTHONY ROBERTS, MP
Minister for Planning

State Environmental Planning Policy (Sydney Harbour Catchment) Amendment 2018

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1 Name of Policy

This Policy is *State Environmental Planning Policy (Sydney Harbour Catchment) Amendment 2018*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

3 Repeal of Policy

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

Schedule 1 Amendment of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

[1] Clause 7 Relationship with other environmental planning instruments

Insert after clause 7 (5):

- (6) Clauses 4A.11 and 4A.12 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* do not apply to development to which clause 39A of this Plan applies.

[2] Clause 18 Development control in the waterways

Insert in alphabetical order in the Table to the clause:

Floating boat platforms	N	N	N	N	N	Y	Y	N
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[3] Clause 18, Table

Omit the matter relating to mooring pens. Insert instead:

Mooring pens	N	N	N	N	N	Y	Y	N
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[4] Clauses 27A and 27B

Insert after clause 27:

27A Floating boat platforms

- (1) In addition to the matters to be taken into consideration under clause 27, the matters to be taken into consideration in relation to floating boat platforms are as follows:
- (a) floating boat platforms should not reduce or adversely affect public access to and along the foreshore in the vicinity of the development,
 - (b) floating boat platforms should be compatible with the character of the locality,
 - (c) floating boat platforms should be in a location that is suitable for that purpose, having regard to water depth (without the need for dredging),
 - (d) construction, installation and use of floating boat platforms must not impact adversely on seagrass.
- (2) Without limiting subclause (1) (c), the consent authority must not grant development consent to development for the purposes of a floating boat platform unless it is satisfied that the floating boat platform will, at all times, have a minimum seabed clearance of 600mm (without the need for dredging).
- (3) In this clause, *seabed clearance* means the distance to the seabed from the underside of the floating boat platform.

Note. Development must not involve disturbance of, or injury to, the bed of a waterway or marine vegetation (within the meaning of the *Fisheries Management Act 1994*) unless the carrying out of the activity causing the disturbance or injury has been authorised under that Act.

27B Mooring pens

The matters to be taken into consideration in relation to mooring pens are as follows:

- (a) mooring pens should not impact adversely on safe navigation,
- (b) mooring pens should not reduce or adversely affect public access to and along the foreshore in the vicinity of the development,
- (c) mooring pens should be compatible with the character of the locality,
- (d) mooring pens should be as visually unobtrusive as possible,
- (e) mooring pens for the permanent berthing of a vessel should be in a location that is suitable for that purpose, having regard to water depth (without the need for dredging) and wave action,
- (f) construction, installation and use of mooring pens must not impact adversely on seagrass.

Note. Development must not involve disturbance of, or injury to, the bed of a waterway or marine vegetation (within the meaning of the *Fisheries Management Act 1994*) unless the carrying out of the activity causing the disturbance or injury has been authorised under that Act.

[5] Part 3, Division 5

Insert after Division 4 of Part 3:

Division 5 Complying development

39A Boat sheds, mooring pens, private landing facilities, private landing steps, skids and slipways

- (1) Structural repairs to, the replacement of, or the carrying out of maintenance works in relation to existing lawful boat sheds, mooring pens, private landing facilities, private landing steps, skids or slipways that are not used for a commercial purpose is complying development if:
 - (a) the development meets the standards specified in subclause (2), and
 - (b) the development is not carried out on a heritage item or a draft heritage item.
- (2) The development must:
 - (a) not increase the height or site coverage of the building concerned, and
 - (b) use materials that are equivalent to the quality of the existing approved materials being repaired or replaced, and
 - (c) not result in a pile being left exposed within the waterway, and
 - (d) not reduce the amount of light penetration to any water below, and
 - (e) satisfy the provisions of the *Building Code of Australia* applying to the development, or if there are no applicable provisions:
 - (i) be structurally adequate, and
 - (ii) not change the classification of any building under the *Building Code of Australia*, and
 - (f) use recessive colours sympathetic to the existing natural landscape and built form, and
 - (g) comply with AS 4997—2005, *Guidelines for the design of maritime structures*, and

- (h) if the development is for the purpose of the removal or the replacement of damaged or degraded piles:
 - (i) not cause a deterioration in water quality, and
 - (ii) use silt curtains or similar effective methods to control pollution, and
 - (iii) not dispose of spoil in the waterway, and
- (i) not involve disturbance of, or injury to, the bed of a waterway or marine vegetation (within the meaning of the *Fisheries Management Act 1994*), and
- (j) in the case of the repair or replacement of any winch or other device used for the lifting of a vessel—not be larger in size or capacity than the one being repaired or replaced.

Note. Approvals may be required under the *Fisheries Management Act 1994* and the *Protection of the Environment Operations Act 1997*.

39B Floating boat platforms

- (1) Development for the purposes of floating boat platforms is complying development if the development:
 - (a) is located within a mooring pen in Zone No W6 or W7 to which the consent authority has given development consent, and
 - (b) meets the standards specified in subclause (2).
- (2) The following standards are specified for the development:
 - (a) the development must, at all times, have a minimum seabed clearance of 600mm (without the need for dredging),
 - (b) the floating boat platform must be located wholly within a mooring pen,
 - (c) the highest point of the floating boat platform must not be greater than 400mm above the water line of the platform when a vessel is berthed on the platform,
 - (d) the floating boat platform must not include any crane, winch or mechanical device,
 - (e) the development must use neutral or recessive colours,
 - (f) the development must not impact adversely on safe navigation,
 - (g) the development must not reduce or adversely affect public access to and along the foreshore, and to and from the waterway, in the vicinity of the development,
 - (h) the development must not be located above seagrass and the construction, installation or use of the floating boat platform must not impact adversely on seagrass.
- (3) In this clause, *seabed clearance* means the distance to the seabed from the underside of the fishing boat platform.

Note. Development must not involve disturbance of, or injury to, the bed of a waterway or marine vegetation (within the meaning of the *Fisheries Management Act 1994*) unless the carrying out of the activity causing the disturbance or injury has been authorised under that Act.

[6] Dictionary

Insert in alphabetical order:

floating boat platform means a portable floating platform constructed from lightweight materials and secured to a mooring pen or a private landing facility

that is used to store, above the water line, vessels that are not more than 6m in length.

[7] Dictionary, definition of “private landing facility”

Omit “a vessel to embark or disembark passengers” from the definition.

Insert instead “passengers to embark or disembark a vessel”.