



New South Wales

# **State Environmental Planning Policy Amendment (Water Catchments) 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

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## **State Environmental Planning Policy Amendment (Water Catchments) 2022**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy Amendment (Water Catchments) 2022*.

### **2 Commencement**

This Policy commences on 21 November 2022 and is required to be published on the NSW legislation website.

### **3 Maps**

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

### **4 Repeal of Policy**

This Policy is repealed at the beginning of the day following the day on which this Policy commences.

## Schedule 1 Amendment of State Environmental Planning Policy (Biodiversity and Conservation) 2021

### [1] Chapter 6

Omit Chapters 6–12. Insert instead—

## Chapter 6 Water catchments

### Part 6.1 Preliminary

#### 6.1 Land to which Chapter applies

This Chapter applies to land in the following catchments—

- (a) the Sydney Drinking Water Catchment,
- (b) the Sydney Harbour Catchment,
- (c) the Georges River Catchment,
- (d) the Hawkesbury-Nepean Catchment.

#### 6.2 Definitions

- (1) The Dictionary in Schedule 6 defines words used in this Chapter.
- (2) A word used in this Chapter has the same meaning as in the Standard Instrument unless otherwise defined in this Chapter.

#### 6.3 Relationship with other environmental planning instruments

- (1) Unless the contrary intention expressly appears, this Chapter does not permit the carrying out of development—
  - (a) prohibited by another environmental planning instrument, or
  - (b) if another environmental planning instrument provides that development consent is required for the development—without development consent.

**Note—** An express contrary intention appears in sections 6.40 and 6.41.

- (2) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2, other than section 2.80(2), prevails to the extent of an inconsistency with this Chapter.
- (3) *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, clauses 4A.11 and 4A.12 do not apply to development to which this Policy, section 6.43 applies.
- (4) The Standard Instrument, clause 4.6, as adopted by a local environmental plan, does not apply to a development standard imposed by this Policy, Part 6.5.
- (5) This Chapter otherwise—
  - (a) prevails to the extent of an inconsistency with another environmental planning instrument, whether made before or after the commencement of this Chapter, and
  - (b) supplements, and does not derogate from, another environmental planning instrument applying to land to which this Chapter applies.
- (6) In this section, a reference to another environmental planning instrument includes a reference to another Chapter of this Policy.

## 6.4 Maps

- (1) A reference in this Chapter to a named map adopted by this Chapter is a reference to a map by that name—
  - (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the persons making the environmental planning instruments when the instruments are made.
- (2) Two or more named maps may be combined into a single map.
- (3) If 2 or more named maps are combined into a single map, a reference in this Chapter to 1 of the named maps is a reference to the relevant part or aspect of the single map.
- (4) The maps adopted by this Chapter are to be kept in electronic form and made available for public access in accordance with arrangements approved by the Minister.

## Part 6.2 Development in regulated catchments

### Division 1 Preliminary

#### 6.5 Definitions

In this Part—

***flood liable land*** means land—

- (a) susceptible to flooding by the probable maximum flood event, identified in accordance with the principles set out in the Floodplain Development Manual, within the meaning of the Standard Instrument, clause 5.21. or
- (b) identified in an environmental planning instrument as flood liable land.

***riparian vegetation*** means hydrophilic vegetation, including submerged, emerging and fringing vegetation, that is within a waterway or the floodplain of a waterway.

### Division 2 Controls on development generally

#### 6.6 Water quality and quantity

- (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—
  - (a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,
  - (b) whether the development will have an adverse impact on water flow in a natural waterbody,
  - (c) whether the development will increase the amount of stormwater run-off from a site,
  - (d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,
  - (e) the impact of the development on the level and quality of the water table,

- (f) the cumulative environmental impact of the development on the regulated catchment,
  - (g) whether the development makes adequate provision to protect the quality and quantity of ground water.
- (2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures—
- (a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and
  - (b) the impact on water flow in a natural waterbody will be minimised.
- (3) Subsections (1)(a) and (2)(a) do not apply to development on land in the Sydney Drinking Water Catchment.

**Note—** Part 6.5 contains provisions requiring development in the Sydney Drinking Water Catchment to have a neutral or beneficial effect on water quality.

### 6.7 Aquatic ecology

- (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—
- (a) whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation,
  - (b) whether the development involves the clearing of riparian vegetation and, if so, whether the development will require—
    - (i) a controlled activity approval under the *Water Management Act 2000*, or
    - (ii) a permit under the *Fisheries Management Act 1994*,
  - (c) whether the development will minimise or avoid—
    - (i) the erosion of land abutting a natural waterbody, or
    - (ii) the sedimentation of a natural waterbody,
  - (d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,
  - (e) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,
  - (f) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.

**Example—** Additional measures may include the incorporation of a vegetated buffer between the waterbody and the site.

- (2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—
- (a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,
  - (b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,
  - (c) if a controlled activity approval under the *Water Management Act 2000* or a permit under the *Fisheries Management Act 1994* is required in

relation to the clearing of riparian vegetation—the approval or permit has been obtained,

- (d) the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,
  - (e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.
- (3) In this section—  
***coastal wetlands and littoral rainforests area*** has the same meaning as in the *Coastal Management Act 2016*, section 6.

## 6.8 Flooding

- (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.
- (2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not—
  - (a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or
  - (b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.

## 6.9 Recreation and public access

- (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider—
  - (a) the likely impact of the development on recreational land uses in the regulated catchment, and
  - (b) whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.
- (2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—
  - (a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,
  - (b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,
  - (c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.
- (3) This section does not apply to development on land in a regulated catchment if the land is in a special area under the *Water NSW Act 2014*.

#### **6.10 Total catchment management**

In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact.

### **Division 3 Controls on development in specific areas**

#### **6.11 Land within 100m of natural waterbody**

In deciding whether to grant development consent to development on land within 100m of a natural waterbody in a regulated catchment, the consent authority must consider whether—

- (a) the land uses proposed for land abutting the natural waterbody are water-dependent uses, and
- (b) conflicts between land uses are minimised.

#### **6.12 Riverine Scenic Areas**

- (1) Development in a Riverine Scenic Area may be carried out only with development consent.
- (2) In deciding whether to grant development consent to development in a Riverine Scenic Area, the consent authority must consider the following—
  - (a) whether the development is likely to damage river banks,
  - (b) whether the development will be adequately set back from natural waterbodies in the Hawkesbury-Nepean Catchment,
  - (c) the visibility of the development from the surrounding natural waterbodies and visual catchment,
  - (d) whether the development will be consistent with the scenic character of the Riverine Scenic Area, as described in the document entitled *Hawkesbury-Nepean River Scenic Quality Study*, published by the Department of Urban Affairs and Planning in 1996,
  - (e) whether the development will increase public recreational and visual access to natural waterbodies,
  - (f) landscaping, including the following—
    - (i) the form and siting of buildings,
    - (ii) the colours and materials proposed to be used in the buildings,
    - (iii) whether the development includes or retains native vegetation,
  - (g) the appropriateness of imposing a condition requiring the protection of the scenic character of the Riverine Scenic Area.
- (3) Development consent must not be granted to development in a Riverine Scenic Area unless the consent authority is satisfied the impact of the development on the scenic quality of the Riverine Scenic Area will be minimised.

#### **6.13 Hawkesbury-Nepean conservation area sub-catchments**

- (1) Development in a Hawkesbury-Nepean conservation area sub-catchment may be carried out only with development consent.
- (2) In deciding whether to grant development consent to development in a Hawkesbury-Nepean conservation area sub-catchment, the consent authority must consider the following—



- (a) whether the development will minimise human interference with the condition of the sub-catchment,
- (b) whether the development will maintain and enhance the structure and floristics of native vegetation in the sub-catchment,
- (c) whether the development will maintain or enhance the scenic quality of the locality,
- (d) whether development has previously been carried out on the development site.

#### **6.14 Temporary use of land in Sydney Harbour Catchment**

- (1) The objective of this section is to provide for the temporary use of land in the Sydney Harbour Catchment if the use does not compromise future development of the land or have detrimental economic, social, amenity or environmental effects on the land.
- (2) This section applies to land in the Sydney Harbour Catchment.
- (3) Development consent may be granted to development on land in the Sydney Harbour Catchment for a temporary use for a maximum period of 52 days, whether or not consecutive, in a period of 12 months, even if the development would otherwise be prohibited by this Chapter.
- (4) Development consent must not be granted unless the consent authority is satisfied of the following—
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Chapter and any other applicable environmental planning instrument,
  - (b) the temporary use will not have an adverse impact on adjoining land or the amenity of the neighbourhood,
  - (c) the temporary use and location of structures related to the use will not have an adverse impact on environmental attributes or features of the land or increase the risk of natural hazards that may affect the land,
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (5) Development consent may be granted to development for the temporary use of a dwelling as a sales office for a new release area or a new housing estate for a period exceeding the maximum period specified in subsection (3).
- (6) Subsection (4)(d) does not apply to a temporary use referred to in subsection (5).

### **Division 4 Controls on development for specific purposes**

#### **6.15 Aquaculture**

In deciding whether to grant development consent to development for the purposes of aquaculture on land in a regulated catchment, the consent authority must consider the following—

- (a) the likely direct, indirect and cumulative environmental impacts of related activities, including—
  - (i) the coating of fishing accessories with protective finishes, and
  - (ii) the transport and cleaning of cages, racks and other accessories,

- (b) whether the development includes adequate measures for the disposal of waste,
- (c) potential adverse environmental impacts from damage to facilities or equipment associated with the development that is caused by flooding, stormwater or erosion.

#### **6.16 Artificial waterbodies**

- (1) In deciding whether to grant development consent to development for the purposes of artificial waterbodies on land in a regulated catchment, the consent authority must consider the following—
  - (a) the likely impact of the development on other downstream land uses in the regulated catchment,
  - (b) whether the development will enhance the recreational and environmental amenity of the regulated catchment,
  - (c) whether the development will contribute to a propagation zone for noxious aquatic weeds in the regulated catchment,
  - (d) whether the development includes measures to minimise the risk of an increase in algal blooms in the regulated catchment.
- (2) Development consent must not be granted to development for the purposes of artificial waterbodies on land in a regulated catchment if—
  - (a) a rehabilitation plan is required to be prepared for the development under *State Environmental Planning Policy (Resources and Energy) 2021*, section 2.23, and
  - (b) the consent authority is not satisfied the development is consistent with the rehabilitation plan.

#### **6.17 Heavy and hazardous industries**

- (1) This section applies to—
  - (a) development for the purposes of potentially hazardous industry or potentially offensive industry, and
  - (b) development for the purposes of heavy industrial storage establishments or heavy industries.
- (2) In deciding whether to grant development consent to development to which this section applies, the consent authority must consider the need for bush fire hazard reduction work on the site.
- (3) Development consent must not be granted to development to which this section applies unless the consent authority is satisfied—
  - (a) the development includes adequate measures to contain water that is at risk of contamination as a result of the development, and
  - (b) approvals have been obtained, or are obtainable, to undertake bush fire hazard reduction work required on the site.
- (4) Development for the purposes of heavy industrial storage establishments or heavy industries is prohibited on land in a regulated catchment if the development is carried out—
  - (a) on flood liable land, or
  - (b) within 40m of a natural waterbody or watercourse, or
  - (c) on a floodway.
- (5) In this section—

**floodway** means an area of a floodplain where a significant discharge of water occurs during floods, which, even if partially blocked, would cause a significant redistribution of flood flow or a significant increase in flood levels.

**potentially hazardous industry** has the same meaning as in *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 3.

**potentially offensive industry** has the same meaning as in *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 3.

#### 6.18 Marinas

In deciding whether to grant development consent to development for the purposes of marinas on land in a regulated catchment, the consent authority must consider the following—

- (a) whether the development includes adequate measures in relation to the collection, storage, treatment and disposal of sewage and other waste,
- (b) whether the development complies with the document entitled *Environmental Guidelines: Best Management Practice for Marinas and Slipways*, published in 1998 by the Environment Protection Authority,
- (c) whether adequate depth of water exists for the development and related foreshore facilities,
- (d) whether the development is likely to affect the stability of land adjoining a natural waterbody,
- (e) whether the development will have an adverse impact on the foreshore or the bed of a natural waterbody.

#### 6.19 Moorings

- (1) Development for the purposes of moorings on land in a regulated catchment—
  - (a) may be carried out with development consent, if the development will be carried out in accordance with a permit under the *Fisheries Management Act 1994*, and
  - (b) is otherwise prohibited.

**Note—** Development requiring both development consent and a specified permit under the *Fisheries Management Act 1994* is integrated development—see the Act, section 4.46.

- (2) In deciding whether to grant development consent to development for the purposes of moorings on land in a regulated catchment, the consent authority must consider the following—
  - (a) the type and size of vessels that will be moored,
  - (b) whether adequate depth of water exists for the development,
  - (c) whether dredging will be needed to carry out the development,
  - (d) whether the development will provide public facilities or promote the shared use of private facilities.

#### 6.20 On-site domestic sewerage systems

- (1) This section applies to development for the purposes of on-site domestic sewerage systems on land in a regulated catchment.
- (2) In deciding whether to grant development consent, the consent authority must consider the following—
  - (a) whether the development will be capable of connecting to a sewerage reticulation system,

- (b) the suitability of the site for on-site disposal of effluent,
  - (c) the capacity of the development to operate without significant adverse long-term impacts on adjoining land.
- (3) Development consent must not be granted unless the consent authority is satisfied that the development includes adequate measures—
- (a) to prevent the spread of disease, and
  - (b) to reuse treated resources, and
  - (c) to facilitate the recycling and reuse of treated effluent, and
  - (d) to minimise adverse impacts on the amenity of the development site and other nearby land, and
  - (e) to maintain storage and treatment capacity in wet weather, and
  - (f) to monitor the relevant sewerage system on an ongoing basis.
- (4) Development consent must not be granted to single household development that is not connected to a sewage reticulation system unless the consent authority is also satisfied that the development complies with the relevant guidelines.
- (5) In this section—
- on-site domestic sewerage system*** means a building, work or place at which effluent is stored, treated or disposed of on-site for domestic purposes.
- relevant guidelines*** means the document entitled *Environment and Health Protection Guidelines—On-site Sewage Management for Single Households*, published by the Department of Local Government, the Department of Land and Water Conservation, the Department of Health and the Environment Protection Authority in 1998.
- single household development*** meant development to which this section applies that is associated with residential accommodation consisting of a single dwelling.

#### **6.21 Stormwater management**

- (1) This section applies to development for the purposes of works, including water recycling facilities, water reticulation systems and water storage facilities, that are designed to collect, channel, store, treat or disperse stormwater runoff.
- (2) Development to which this section applies may be carried out on land in a regulated catchment—
- (a) by or on behalf of a public authority—without development consent, or
  - (b) otherwise—with development consent.
- (3) Despite subsection (2), development to which this section applies is prohibited on land in a regulated catchment if the works will cause untreated stormwater to be disposed of into a natural waterbody.
- (4) In this section—
- untreated stormwater*** means stormwater that has not been subjected to measures designed to reduce litter, suspended soils, nutrients or other substances that contribute to a decline in water quality.

#### **6.22 Waste or resource management facilities**

- (1) Development for the purposes of waste or resource management facilities is prohibited on flood liable land in the Georges River Catchment.

- (2) Development consent must not be granted to development for the purposes of waste or resource management facilities on land in a regulated catchment unless the consent authority is satisfied of the following—
  - (a) an adequate site management plan has been prepared in relation to the development,
  - (b) the development includes adequate leachate surface controls,
  - (c) the final landform of the development on the site will be stable in the long term.

#### **6.23 Demolition on certain land**

- (1) This section applies to land—
  - (a) in a regulated catchment, and
  - (b) to which a local environmental plan that adopts the Standard Instrument does not apply.
- (2) Development that involves the demolition of a building or work may be carried out only with development consent.

## **Part 6.3 Foreshores and Waterways Area**

### **Division 1 Preliminary**

#### **6.24 Application of Part**

- (1) This Part applies to land that is in, or abuts, the Foreshores and Waterways Area.
- (2) If development is permitted with development consent under this Part, the permission is subject to a provision of another Part that prohibits the development.
- (3) If development is permitted without development consent under this Part, the permission is subject to a provision of another Part that—
  - (a) permits the development with development consent, or
  - (b) prohibits the development.

#### **6.25 Consent authority**

- (1) The Minister administering the *Ports and Maritime Administration Act 1995* is the consent authority for the following development—
  - (a) development comprising the subdivision of land owned by TfNSW in or abutting the Foreshores and Waterways Area,
  - (b) development carried out in the Foreshores and Waterways Area wholly below the mean high water mark,
  - (c) development carried out in the Foreshores and Waterways Area for one or more of the following purposes, including development carried out wholly or partly inside a local government area—

Above-water boat lifts; Advertisements; Advertising structures; Aids to navigation; Aviation facilities; Boat lifts; Charter and tourism boating facilities; Commercial port facilities; Dredging; Floating boat platforms; Flora and fauna enclosures; Houseboats; Maintenance dredging; Mooring pens; Private landing facilities; Private landing steps; Private marinas; Private swimming enclosures; Public

boardwalks; Public water transport facilities; Single moorings; Skids; Slipways

**Note—** See the *Local Government Act 1993*, section 205 in relation to the foreshore land taken to be included in a local government area.

- (2) Despite subsection (1), the Minister administering the *Environmental Planning and Assessment Act 1979* is the consent authority for the following development carried out in the Foreshores and Waterways Area—
- (a) development carried out partly above and partly below the mean high water mark,
- (b) development carried out below the mean high water mark for the purposes of one or more of the following—  
Boat building and repair facilities; Boat launching ramps; Boat sheds; Marinas; Reclamation works; Swimming pools; Water-based restaurants and entertainment facilities; Waterfront access stairs; Water recreation structures; Wharf or boating facilities that are sea walls
- (c) development carried out wholly or partly inside the zoned waterway, including development carried out below the mean high water mark, for the purposes of one or more of the following—  
Car parks; Commercial premises; Recreational or club facilities; Residential accommodation; Restaurants or cafes; Retail premises; Tourist facilities
- (3) Subsections (1) and (2) do not apply if another environmental planning instrument specifies a different public authority, other than the council, as the consent authority for the development.

**Note—** If another environmental planning instrument declares development as development for which a public authority, other than a council, is the consent authority, that public authority is the consent authority for the development. See the Act, section 4.5(c).

## **Division 2 Zoning of Foreshores and Waterways Area**

### **6.26 Zoning of Foreshores and Waterways Area**

- (1) For this Part, land is in one of the following zones if it is shown within the zone on the Foreshores and Waterways Area Map—  
Zone 1—Maritime Waters  
Zone 2—Environment Protection  
Zone 3—Naval Waters  
Zone 4—Aviation  
Zone 5—Water Recreation  
Zone 6—Scenic Waters—Active Use  
Zone 7—Scenic Waters—Casual Use  
Zone 8—Scenic Waters—Passive Use  
Zone 9—National Parks and Nature Reserves
- (2) A zone boundary that follows the water's edge, as shown on the Foreshores and Waterways Area Map, is taken to follow the mean high water mark.
- (3) This section does not affect the zoning, under another environmental planning instrument, of land in the Foreshores and Waterways Area if the land is not included in a zone under this section.

## **6.27 Zone objectives and Land Use Table**

- (1) The Land Use Table at the end of this section specifies the following for each zone—
  - (a) the objectives for development,
  - (b) development that may be carried out without development consent,
  - (c) development that may be carried out only with development consent,
  - (d) development that is prohibited.
- (2) Development not specified in the Table in relation to a zone may be carried out with development consent in the zone if the consent authority is satisfied that the development—
  - (a) is not inconsistent with the objectives for development in the zone, and
  - (b) is not inconsistent with the provisions of another environmental planning instrument, and
  - (c) will not otherwise have adverse impacts.
- (3) The consent authority must consider the objectives for development in a zone when determining a development application in relation to land in the zone.

### **Land Use Table**

#### **Zone 1 Maritime Waters**

##### **1 Objectives of zone**

- To give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industry operations.
- To allow development that is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations.
- To promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft.

##### **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; General restoration works; Maintenance dredging; Naval activities; Single moorings

##### **3 Permitted with consent**

Aviation facilities; Boat building and repair facilities; Boat launching ramps; Boat lifts; Charter and tourism boating facilities; Commercial port facilities; Community facilities; Dredging; Flora and fauna enclosures; Marinas; Private landing steps; Public boardwalks; Public water transport facilities; Recreational or club facilities; Skids; Telecommunications facilities; Water recreation structures

##### **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Boat sheds; Floating boat platforms; Houseboats; Intertidal

dredging; Mooring pens; Private landing facilities; Private swimming enclosures; Reclamation works; Residential accommodation; Slipways; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 2 Environment Protection**

### **1 Objectives of zone**

- To protect the natural and cultural values of waters in the zone.
- To prevent damage to, or the possibility of long term adverse impact on, the natural and cultural values of waters in the zone and adjoining foreshores.
- To enhance and rehabilitate the natural and cultural values of waters in the zone and adjoining foreshores.
- To provide for the long term management of the natural and cultural values of waters in the zone and adjoining foreshores.

### **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; General restoration works; Naval activities; Single moorings

### **3 Permitted with consent**

Boat launching ramps; Community facilities; Dredging; Flora and fauna enclosures; Maintenance dredging; Private landing steps; Public boardwalks; Public water transport facilities; Recreational or club facilities; Telecommunications facilities; Water recreation structures

### **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Boat building and repair facilities; Boat lifts; Boat sheds; Charter and tourism boating facilities; Commercial port facilities; Floating boat platforms; Houseboats; Intertidal dredging; Marinas; Mooring pens; Private landing facilities; Private swimming enclosures; Reclamation works; Residential accommodation; Skids; Slipways; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 3 Naval Waters**

### **1 Objectives of zone**

- To ensure effective implementation of the *Control of Naval Waters Act 1918* of the Commonwealth.
- To restrict development that is incompatible with naval interests.
- To allow development that does not jeopardise naval interests.



**2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Naval activities; Single moorings

**3 Permitted with consent**

Aviation facilities; Boat building and repair facilities; Boat launching ramps; Boat lifts; Charter and tourism boating facilities; Commercial port facilities; Community facilities; Dredging; Private landing steps; Private swimming enclosures; Public boardwalks; Public water transport facilities; Recreational or club facilities; Telecommunications facilities; Water recreation structures

**4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Boat sheds; Floating boat platforms; Houseboats; Intertidal dredging; Marinas; Mooring pens; Private landing facilities; Reclamation works; Residential accommodation; Skids; Slipways; Swimming pools; Tourist facilities; Uses and activities prohibited under the *Control of Naval Waters Act 1918* of the Commonwealth, Water-based restaurants and entertainment facilities; Waterfront access stairs

**Zone 4 Aviation**

**1 Objectives of zone**

- To give preference to and protect waters required for marine aviation activities.
- To ensure marine aviation activities safely coexist with other activities and facilities.
- To allow development that is compatible with, and will not adversely affect, marine aviation activities.

**2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Naval activities; Single moorings

**3 Permitted with consent**

Aviation facilities; Boat building and repair facilities; Boat launching ramps; Boat lifts; Charter and tourism boating facilities; Commercial port facilities; Community facilities; Dredging; Marinas; Private landing steps; Private swimming enclosures; Public boardwalks; Public water transport facilities; Recreational or club facilities; Telecommunications facilities; Water recreation structures

**4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Boat sheds; Floating boat platforms; Houseboats; Intertidal dredging; Mooring pens; Private landing facilities; Reclamation works; Residential accommodation; Skids; Slipways; Swimming

pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 5 Water Recreation**

### **1 Objectives of zone**

- To give preference to and increase public water-dependent development that will promote the enjoyment of, and free access to, the Foreshores and Waterways Area.
- To allow development that will enhance public use of waters in the zone and not compromise public use of waters in the zone in the present or future.
- To minimise the number, scale and extent of artificial structures, considering the function of the structures.
- To allow commercial water-dependent development that—
  - (a) meets a justified demand, and
  - (b) provides benefits to the general and boating public, and
  - (c) results in a visual outcome that is compatible with the planned character of the locality.
- To minimise congestion and conflict arising from the use of waters in the zone and the adjoining foreshores.
- To protect and preserve beach environments and ensure they are free from artificial structures.
- To ensure the scale and size of development are appropriate to the locality.
- To ensure the scale and size of development protect and improve the natural assets and the natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in the zone or from areas of public access.

### **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Naval activities; Single moorings

### **3 Permitted with consent**

Boat building and repair facilities; Boat launching ramps; Boat lifts; Charter and tourism boating facilities; Community facilities; Dredging; Marinas; Private landing steps; Public boardwalks; Public water transport facilities; Recreational or club facilities; Skids; Telecommunications facilities; Water recreation structures

### **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Boat sheds; Commercial port facilities; Floating boat platforms; Houseboats; Intertidal dredging; Mooring pens; Private landing facilities; Private swimming enclosures; Reclamation works; Residential accommodation; Slipways; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 6 Scenic Waters—Active Use**

### **1 Objectives of zone**

- To allow a range of public and private water-dependent development close to shore only if the development—
  - (a) minimises alienation of waters in the zone from public use, and
  - (b) is not constrained by shallow water depth, navigational conflicts or severe wave action.
- To minimise the number and extent of structures over waters in the zone through mechanisms, including the sharing of structures between adjoining waterfront property owners.
- To ensure remnant natural features, aquatic ecology and public access along the intertidal zone are not damaged or impaired by development.
- To minimise the adverse impact on views to and from waters in the zone and on the scenic values of the locality as a result of the size of vessels capable of being accommodated as a result of development in the zone.

### **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Single moorings

### **3 Permitted with consent**

Boat building and repair facilities; Boat launching ramps; Boat lifts; Boat sheds; Charter and tourism boating facilities; Community facilities; Dredging; Floating boat platforms; Marinas; Mooring pens; Naval activities; Private landing facilities; Private landing steps; Private swimming enclosures; Public boardwalks; Public water transport facilities; Recreational or club facilities; Skids; Slipways; Telecommunications facilities; Water recreation structures

### **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Commercial port facilities; Houseboats; Intertidal dredging; Reclamation works; Residential accommodation; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 7 Scenic Waters—Casual Use**

### **1 Objectives of zone**

- To allow certain water-dependent development close to shore to meet casual boating needs and other water access needs.
- To allow development only if the development—
  - (a) achieves a largely open and unobstructed waterway, and
  - (b) does not dominate the landscape setting.

- To restrict development for permanent boat storage in locations that are unsuitable due to—
  - (a) the adverse visual impact of the development, or
  - (b) physical constraints, including shallow water depth, severe wave action and unsafe navigation.
- To ensure the scale and size of development are appropriate to the locality
- To ensure the scale and size of development protect and improve the natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in the zone and areas of public access.
- To maintain and enhance views to and from waters in the zone.
- To minimise the number and extent of structures over waters in the zone through mechanisms including the sharing of structures between adjoining waterfront property owners.
- To ensure remnant natural features, aquatic ecology and public access along the intertidal zone are not damaged or impaired by development.

## **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Single moorings

## **3 Permitted with consent**

Boat building and repair facilities; Boat launching ramps; Boat lifts; Community facilities; Dredging; Floating boat platforms; Mooring pens; Naval activities; Private landing facilities; Private landing steps; Private swimming enclosures; Public boardwalks; Public water transport facilities; Recreational or club facilities; Skids; Slipways; Telecommunications facilities; Water recreation structures

## **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Boat sheds; Charter and tourism boating facilities; Commercial port facilities; Houseboats; Intertidal dredging; Marinas; Reclamation works; Residential accommodation; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 8 Scenic Waters—Passive Use**

### **1 Objectives of zone**

- To give preference to unimpeded public access along the intertidal zone, the visual continuity and significance of the landform and the ecological value of waters and foreshores.
- To restrict development for permanent boat storage and private landing facilities in unsuitable locations.
- To allow water-dependent development only if the development—

- (a) meets a demonstrated demand, and
- (b) is compatible with the planned character of the locality.

- To ensure the scale and size of development are appropriate to the locality.
- To ensure the scale and size of development protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in the zone or areas of public access.

## **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Single moorings

## **3 Permitted with consent**

Boat building and repair facilities; Boat launching ramps; Boat lifts; Community facilities; Dredging; Naval activities; Private landing steps; Public boardwalks; Public water transport facilities; Recreational or club facilities; Skids; Slipways; Telecommunications facilities; Water recreation structures

## **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Boat sheds; Charter and tourism boating facilities; Commercial port facilities; Floating boat platforms; Houseboats; Intertidal dredging; Marinas; Mooring pens; Private landing facilities; Private swimming enclosures; Reclamation works; Residential accommodation; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 9 National Parks and Nature Reserves**

### **1 Objectives of zone**

- To identify and protect the environmental significance of islands in Sydney Harbour acquired or reserved under the *National Parks and Wildlife Act 1974*.
- To enable uses of the islands that are authorised under the *National Parks and Wildlife Act 1974*.
- To facilitate public access to Clark Island, Fort Denison, Goat Island, Rodd Island and Shark Island.
- To facilitate development on Clark Island, Fort Denison, Goat Island, Rodd Island and Shark Island in a way that is compatible with the plan of management prepared under the *National Parks and Wildlife Act 1974* in relation to Sydney Harbour National Park.

### **2 Permitted without consent**

Aids to navigation; Uses authorised under the *National Parks and Wildlife Act 1974*

**3 Permitted with consent**

Nil

**4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Boat building and repair facilities; Boat launching ramps; Boat lifts; Boat sheds; Charter and tourism boating facilities; Commercial port facilities; Community facilities; Demolition; Dredging; Floating boat platforms; Flora and fauna enclosures; General restoration works; Houseboats; Intertidal dredging; Maintenance dredging; Marinas; Mooring pens; Naval activities; Private landing facilities; Private landing steps; Private swimming enclosures; Public boardwalks; Public water transport facilities; Reclamation works; Recreational or club facilities; Residential accommodation; Single moorings; Skids; Slipways; Swimming pools; Telecommunications facilities; Tourist facilities; Water recreation structures; Water-based restaurants and entertainment facilities; Waterfront access stairs

**Division 3 Development in Foreshores and Waterways Area**

**6.28 General**

- (1) In deciding whether to grant development consent to development in the Foreshores and Waterways Area, the consent authority must consider the following—
  - (a) whether the development is consistent with the following principles—
    - (i) Sydney Harbour is a public resource, owned by the public, to be protected for the public good,
    - (ii) the public good has precedence over the private good,
    - (iii) the protection of the natural assets of Sydney Harbour has precedence over all other interests,
  - (b) whether the development will promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft,
  - (c) whether the development will have an adverse impact on the Foreshores and Waterways Area, including on commercial and recreational uses of the Foreshores and Waterways Area,
  - (d) whether the development promotes water-dependent land uses over other land uses,
  - (e) whether the development will minimise risk to the development from rising sea levels or changing flood patterns as a result of climate change,
  - (f) whether the development will protect or reinstate natural intertidal foreshore areas, natural landforms and native vegetation,
  - (g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation,
  - (h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.

- (2) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—
- (a) having regard to both current and future demand, the character and functions of a working harbour will be retained on foreshore sites,
  - (b) if the development site adjoins land used for industrial or commercial maritime purposes—the development will be compatible with the use of the adjoining land,
  - (c) if the development is for or in relation to industrial or commercial maritime purposes—public access that does not interfere with the purposes will be provided and maintained to and along the foreshore,
  - (d) if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,
  - (e) the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from—
    - (i) the Foreshores and Waterways Area, and
    - (ii) public places, landmarks and heritage items.
- (3) In this section—

*aquatic vegetation* includes seagrass, saltmarsh and algal and mangrove communities.

**Note—** Development that does not require development consent may constitute an activity under the Act, Division 5.1. The *Environmental Planning and Assessment Regulation 2021*, Part 8, Division 1, sets out factors to be taken into account by determining authorities in exercising functions under the Act, section 5.5.

#### **6.29 Areas of outstanding biodiversity value**

- (1) This section applies to land in the Foreshores and Waterways Area that is also in a declared area of outstanding biodiversity value within the meaning of the *Biodiversity Conservation Act 2016*.

**Note—** This section applies to the critical habitat for the Little Penguin population at Manly. See Government Gazette No 263 of 2002, p 10983 and the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, clause 8.

- (2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied the development will not have a significant adverse impact on the land.

#### **6.30 National parks**

- (1) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied that the development—

- (a) is not likely to affect land that is reserved under the *National Parks and Wildlife Act 1974*, and
- (b) is consistent with the document entitled *Developments adjacent to National Parks and Wildlife Service lands: Guidelines for consent and planning authorities*, published by the Department in 2020.

- (2) Despite any other provision of this Chapter, development on land in the Foreshores and Waterways Area is permitted without development consent if—

- (a) the development site abuts land reserved under the *National Parks and Wildlife Act 1974* (**reserved land**), and

- (b) the development spans the mean high water mark and is part of other development being carried out on the reserved land, and
- (c) the development is for a purpose for which development is authorised to be carried out under the *National Parks and Wildlife Act 1974*.

### 6.31 Dredging

- (1) Despite any other provision of this Part, development for the purposes of dredging, intertidal dredging or maintenance dredging in the Foreshores and Waterways Area may be carried out without development consent if the development is carried out by or on behalf of—
  - (a) TfNSW, or
  - (b) the Port Authority of NSW.
- (2) Development consent must not be granted to development for the purposes of dredging or maintenance dredging in the Foreshores and Waterways Area unless the consent authority has considered—
  - (a) the adequacy of an acid sulfate soils management plan prepared for the development in accordance with the *Acid Sulfate Soils Assessment Guidelines*, and
  - (b) the likelihood of the development resulting in the discharge of acid water.
- (3) In this section—  
*Acid Sulfate Soils Assessment Guidelines* means the *Acid Sulfate Soils Assessment Guidelines* published in the Acid Sulfate Soils Manual.

### 6.32 Rocky foreshores and significant seagrasses

- (1) This section applies to land identified as a rocky foreshore or significant seagrass area on the Rocky Foreshores and Significant Seagrasses Map.
- (2) Development on land to which this section applies may be carried out only with development consent.
- (3) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied the development—
  - (a) will preserve and enhance the health and integrity of seagrasses, areas containing seagrasses and ecological communities in rocky foreshore areas, and
  - (b) will maintain or increase the connectivity of seagrass vegetation and natural landforms, and
  - (c) will prevent, or will not contribute to, the fragmentation of aquatic ecology, and
  - (d) will not cause physical damage to aquatic ecology.
- (4) Despite subsection (2), development consent is not required for development that is—
  - (a) for the sole purpose of maintaining an existing navigational channel, or
  - (b) for works that—
    - (i) will restore or enhance the natural values of rocky foreshore or seagrass areas, including the restoration or enhancement of plant communities, water levels, water flow or soil composition, and
    - (ii) are to be carried out to rectify damage arising from a contravention of this Chapter, and



- (iii) will have no significant environmental impact beyond the site on which they are carried out, or
- (c) to be carried out by or on behalf of—
  - (i) TfNSW, or
  - (ii) the Port Authority of NSW.

### 6.33 Boat storage facilities

In deciding whether to grant development consent to development for the purposes of boat storage facilities in the Foreshores and Waterways Area, the consent authority must consider the following—

- (a) whether the development will increase the number of public boat storage facilities and encourage the use of the facilities,
- (b) whether the development will avoid the proliferation of boat sheds and other related buildings and structures below the mean high water mark,
- (c) whether the development will provide for the shared use of private boat storage facilities,
- (d) whether the development will avoid the proliferation of private boat storage facilities in and over the waterways by providing facilities that satisfy a demonstrated demand,
- (e) whether the development will minimise the visual intrusion caused by the boat storage facility,
- (f) for development involving permanent boat storage—whether the development will—
  - (i) be adversely affected by the wave environment in relation to safety and utility, and
  - (ii) avoid adverse impacts on safe navigation and single moorings.

### 6.34 Floating boat platforms

- (1) In deciding whether to grant development consent to development for the purposes of floating boat platforms in the Foreshores and Waterways Area, the consent authority must consider the following in addition to the matters referred to in section 6.33—

- (a) whether the development will reduce or adversely affect public access to and along the foreshore or to and from the zoned waterway,
- (b) whether the development will be compatible with the locality,
- (c) whether the development will be carried out at a location with suitable water depth, without the need for dredging,
- (d) whether the platforms will, when being constructed, installed or used, have an adverse impact on seagrass, including impacts from—
  - (i) propeller wash or scour, and
  - (ii) overshadowing from the platform or vessels using the platform.

**Note—** The *Fisheries Management Act 1994*, including sections 204A, 204B, 205, 220ZC and 220ZD, creates offences in relation to harming specified marine vegetation and damaging specified habitat.

- (2) Development consent must not be granted to development for the purposes of floating boat platforms in the Foreshores and Waterways Area unless the consent authority is satisfied the platforms will at all times have a minimum seabed clearance of 600mm, without the need for dredging.

- (3) This section does not apply to development for the purposes of floating boat platforms in the Foreshores and Waterways Area carried out as complying development under Division 4.

### 6.35 Mooring pens

- (1) Development consent must not be granted to development for the purposes of mooring pens in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—
- (a) the development will not have an adverse impact on safe navigation,
  - (b) the development will not reduce or adversely affect public access to and along the foreshore or to and from the zoned waterway,
  - (c) the development will be compatible with the character of the locality,
  - (d) the development will minimise the visual intrusion caused by the mooring pens,
  - (e) if a mooring pen is for the permanent berthing of a vessel—the development will be carried out in a location suitable for the berthing, having regard to—
    - (i) water depth, without the need for dredging, and
    - (ii) wave action,
  - (f) the mooring pens will not, when being constructed, installed or used, have an adverse impact on seagrass.

**Note—** The *Fisheries Management Act 1994*, including sections 204A, 204B, 205, 220ZC and 220ZD, creates offences in relation to harming specified marine vegetation and damaging specified habitat.

- (2) This section does not apply to development for the purposes of mooring pens in the Foreshores and Waterways Area carried out as complying development under Division 4.

### 6.36 Private marinas

Despite any other provision of this Part, development for the purposes of private marinas—

- (a) may be carried out with development consent on land in Zone 6, and
- (b) is otherwise prohibited on land in the zoned waterway.

### 6.37 Marinas in Zone 1

Development consent must not be granted to development for the purposes of marinas on land in Zone 1 unless the consent authority is satisfied access between the marinas and the foreshore will not be provided on or across land in Zone 2, 3, 7 or 8.

### 6.38 Marinas and boat building and repair facilities in Zone 2

- (1) The objectives of this section are as follows—
- (a) to maintain the working harbour character and functions of certain existing marinas and boat building and repair facilities by retaining their sites for maritime purposes,
  - (b) to ensure development carried out on the sites, including alterations of or extensions to the facilities, does not substantially increase the scale of the facilities or the intensity of their use.
- (2) Despite any other provision of this Part, development for the purposes of marinas or boat building and repair facilities may be carried out with

development consent on land in Zone 2 if the land is identified as a special purposes area on the Special Purposes (Marinas and Boat Building and Repair Facilities) Map.

- (3) In this section, a reference to a marina does not include a reference to a private marina.

#### **6.39 Development within 20m of boundary with Zone 2**

- (1) Despite any other provision of this Part, a consent authority may grant consent to development on land that is within 20m of a boundary between Zone 2 and another zone for a purpose for which development may be carried out in either Zone 2 or the other zone.
- (2) Subsection (1) does not apply to land within 20m of a boundary between Zone 2 and Zone 9.

#### **6.40 Subdivision of land owned by TfNSW**

- (1) Land owned by TfNSW that is in or abuts the Foreshores and Waterways Area may be subdivided with development consent.
- (2) Subdivision is permitted with development consent under this section despite—
  - (a) any other provision of this Policy, and
  - (b) the provisions of a local environmental plan applying to the land, including development standards relating to subdivision and resulting lots that apply to the subdivision site.
- (3) In deciding whether to grant development consent to subdivision under this section, the consent authority must consider the extent to which the subdivision is likely to result in reduced public access to foreshores or waterways.

**Note—** The consent authority is the Minister administering the *Ports and Maritime Administration Act 1995*—see this Policy, section 6.25.

#### **6.41 Subdivision of land not owned by TfNSW**

- (1) Land in the Foreshores and Waterways Area that is not owned by TfNSW may be subdivided with development consent.
- (2) In deciding whether to grant development consent to subdivision under this section, the consent authority must consider the extent to which the subdivision is likely to result in reduced public access to foreshores or waterways.
- (3) Development consent must not be granted to subdivision under this section unless the consent authority is satisfied the subdivision complies with any development standards imposed by a local environmental plan that—
  - (a) relate to subdivision and resulting lots, and
  - (b) apply to the subdivision site.

### **Division 4 Complying development in Foreshores and Waterways area**

#### **6.42 Complying development—floating boat platforms**

Development for the purposes of floating boat platforms on land in the Foreshores and Waterways Area is complying development if—

- (a) the floating boat platform will be secured to an existing lawful mooring pen in Zone 6 or 7, and
- (b) the development complies with the following development standards—
  - (i) a floating boat platform must, at all times, have a minimum seabed clearance of 600mm, without the need for dredging,
  - (ii) a floating boat platform must be located wholly in the mooring pen to which it is secured,
  - (iii) the highest point of a floating boat platform must not be more than 400mm above the water line of the platform when a vessel is berthed on the platform,
  - (iv) a floating boat platform must not include a crane, winch or mechanical device,
  - (v) the development must use neutral or recessive colours,
  - (vi) a floating boat platform must not be located above seagrass or, when being constructed, installed or used, have an adverse impact on seagrass.

**6.43 Complying development—boat sheds, mooring pens, private landing facilities, private landing steps, skids and slipways**

- (1) Maintenance in relation to existing lawful boat sheds, mooring pens, private landing facilities, private landing steps, skids or slipways that are on land in the Foreshores and Waterways Area and are not used for a commercial purpose is complying development if—
  - (a) the maintenance will not be carried out on a heritage item or draft heritage item, and
  - (b) the development complies with the development standards specified in this section.
- (2) The maintenance must—
  - (a) use materials that are at least equivalent to the quality of the existing approved materials being repaired or replaced, and
  - (b) use recessive colours sympathetic to the existing natural landscape and built form, and
  - (c) satisfy any applicable provisions of AS 4997—2005, *Guidelines for the design of maritime structures*, and
  - (d) satisfy any applicable provisions of the *Building Code of Australia*.
- (3) If there are no applicable provisions of the *Building Code of Australia* for subsection (2)(d), the maintenance must—
  - (a) be structurally adequate, and
  - (b) not change the classification of the building under the *Building Code of Australia*.
- (4) The maintenance must not—
  - (a) increase the height or site coverage of a building, or
  - (b) result in a pile being left exposed in the zoned waterway, or
  - (c) reduce the amount of light penetration to the water below, or
  - (d) involve disturbance of, or harm to, marine vegetation, an aquatic reserve or the bed of a waterway.

- (5) Maintenance that involves removing or replacing damaged or degraded piles must also—
- (a) not cause a deterioration in water quality or dispose of spoil in the waterway, and
  - (b) use silt curtains or similar effective methods to control pollution.
- (6) Maintenance that involves the repair or replacement of a winch or other device used for lifting a vessel must also not result in a winch or device that is larger in size or capacity than the winch or device being repaired or replaced.
- (7) In this section—
- draft heritage item** has the same meaning as in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- harm**, in relation to marine vegetation, has the same meaning as in the *Fisheries Management Act 1994*, Part 7A.
- maintenance** means structural repairs, replacement or other maintenance.
- marine vegetation** has the same meaning as in the *Fisheries Management Act 1994*.
- Note**— Approvals may be required under the *Fisheries Management Act 1994* and the *Protection of the Environment Operations Act 1997*.

## Division 5 Strategic foreshore sites

### 6.44 Definitions

In this Division—

**appropriate authority**, for a strategic foreshore site, means—

- (a) if State significant development is proposed to be carried out on the site—the Minister, or
- (b) otherwise—the council of the local government area that includes, or is nearest to, the strategic foreshore site.

**master plan** means a master plan referred to in section 6.47.

**strategic foreshore site** means a site identified as a strategic foreshore site on the Strategic Foreshore Sites Map.

**Strategic Foreshore Sites Map** means the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Sydney Harbour Strategic Foreshore Sites Map.

### 6.45 Land to which Division applies

- (1) This Division applies to a strategic foreshore site.
- (2) In this Division, a reference to a strategic foreshore site includes a reference to the whole of a structure, including a wharf, that is—
  - (a) located partly on land in a strategic foreshore site and partly on waters adjoining the site, and
  - (b) related to the strategic foreshore site.
- (3) This Division does not apply to—
  - (a) land reserved or acquired under the *National Parks and Wildlife Act 1974* or waterfront land that abuts, and is managed in the same way as, that land, or
  - (b) unless the Minister directs otherwise—the City Foreshores Area or Garden Island, as identified on the Strategic Foreshore Sites Map

**6.46 Development to which Division does not apply**

- (1) This Division does not apply to the following development—
  - (a) the change of use of an existing building to another use,
  - (b) the extension or other variation of operating or trading hours,
  - (c) the temporary use of an existing building for 2 years or less,
  - (d) structural or non-structural alterations to the interior of an existing building,
  - (e) minor structural or non-structural alterations to the exterior of an existing building,
  - (f) the erection or installation of a line, cable, optical fibre, fibre access node, interconnect point, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure or work in connection with a telecommunications network, other than a structure that, when erected or installed, would be visible from a natural waterbody,
  - (g) the erection or installation of an awning or canopy,
  - (h) the erection of a temporary structure for a period of not more than 60 days, whether consecutive or not, in a period of 12 months,
  - (i) the provision and use of outdoor seating, tables or street furniture, including benches, bollards, public artwork installations, street lights, telephone kiosks and tree surrounds, on a footpath or in a plaza or other public place,
  - (j) the use of the public domain for temporary purposes, including the conduct of a festival, performance or promotion or the exhibition of artworks, for a period of not more than 30 days, whether consecutive or not, in a period of 12 months,
  - (k) the construction of an access way for pedestrians or vehicles and associated works,
  - (l) the erection, installation or display of signage, other than—
    - (i) an advertising structure, or
    - (ii) signage that would be visible from a natural waterbody when erected, installed or displayed,
  - (m) the strata subdivision or neighbourhood subdivision of land in relation to a building or work for which a development consent is in force, except where the land forms part of the public domain or is situated over water,
  - (n) the demolition of a building or structure other than—
    - (i) a heritage item, or
    - (ii) a building or structure identified as a heritage item or an item of environmental heritage in an environmental planning instrument or a heritage study prepared by or on behalf of a consent authority,
  - (o) the demolition of a structure, the erection of which is development to which this Division does not apply, other than demolition associated with a project that was approved under the Act, Part 3A before its repeal, or granted after its repeal under the Act, Schedule 6A or the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, Schedule 2.
- (2) In this section—

**existing building** does not include an existing temporary structure.

**neighbourhood subdivision** means subdivision by the following, within the meaning of the *Community Land Development Act 2021*—

- (a) a neighbourhood plan,
- (b) a neighbourhood plan of consolidation,
- (c) a neighbourhood plan of subdivision.

**strata subdivision** means subdivision by the following, within the meaning of the *Strata Schemes Development Act 2015*—

- (a) a strata plan,
- (b) a strata plan of consolidation,
- (c) a strata plan of subdivision.

#### **6.47 Master plans**

- (1) A master plan for a strategic foreshore site must illustrate and explain, as appropriate, proposals for the following—
  - (a) design principles drawn from an analysis of the site and its context,
  - (b) phasing of development,
  - (c) the distribution of land uses, including foreshore public access and open space,
  - (d) pedestrian, cycle and motor vehicle access and circulation networks,
  - (e) provision for parking,
  - (f) provision for infrastructure,
  - (g) building envelopes and built form controls,
  - (h) heritage conservation, including the implementation of heritage management documents or applicable publicly available policies,
  - (i) remediation of the site,
  - (j) provision of public facilities,
  - (k) provision of open space, including the function and landscaping of the space,
  - (l) any impact on adjoining land reserved or acquired under the *National Parks and Wildlife Act 1974* and measures to be taken in relation to the impact,
  - (m) the protection and enhancement of the natural assets of the site and land adjoining the site,
  - (n) the protection and enhancement of natural waterbodies and aquatic ecology on or adjoining the site.
- (2) A master plan may apply to all or part of a strategic foreshore site.
- (3) A master plan may apply to part of a strategic foreshore site only if the appropriate authority is satisfied the approval of a master plan for the specified part of the site will not compromise the following matters—
  - (a) the water quality and river flows of natural waterbodies and ground water,
  - (b) ecological connectivity and aquatic ecology,
  - (c) the maintenance and restoration of the natural assets, vantage points and visual qualities of Sydney Harbour,

- (d) the achievement of the targets set out in *Water Quality and River Flow Interim Environmental Objectives: Guidelines for Water Management: Sydney Harbour and Parramatta River Catchment* published in 1999 by the Environment Protection Authority,
- (e) the achievement of the targets set out in the *Sydney Harbour Catchment Blueprint* published in 2003 by the Department of Land and Water Conservation,
- (f) the functioning of natural drainage systems on floodplains,
- (g) existing measures to rehabilitate land and prevent land degradation,
- (h) the avoidance or minimisation of acid sulfate soil disturbance,
- (i) public access to foreshores and waterways,
- (j) the operation of the Foreshores and Waterways Area for industrial and commercial purposes,
- (k) existing public transport operations and boating facilities,
- (l) existing protections for heritage items.

#### **6.48 Preparation of draft master plans**

- (1) A draft master plan for a strategic foreshore site may be prepared by or on behalf of the following—
  - (a) the owner or lessee of the land to which the master plan will apply,
  - (b) the council of the local government area that includes, or is nearest to, the strategic foreshore site (the *relevant council*),
  - (c) the Planning Secretary.
- (2) The following must be consulted during preparation of a draft master plan—
  - (a) the owner or lessee of the land to which the master plan will apply,
  - (b) the relevant council,
  - (c) the Minister, if the master plan—
    - (i) is for a strategic foreshore site located partly or wholly outside a local government area or for which the Minister is the appropriate authority, or
    - (ii) applies only to part of a strategic foreshore site.
- (3) A draft master plan must be published on the NSW planning portal for at least 21 days before it is approved by the appropriate authority (the *exhibition period*).
- (4) At the beginning of the exhibition period, notice of the draft master plan must be given to the following—
  - (a) the relevant council,
  - (b) the Planning Secretary,
  - (c) public authorities and community organisations the appropriate authority considers relevant to the strategic foreshore site or development on the site.

#### **6.49 Approval and amendment of master plans**

- (1) Before approving a master plan, the appropriate authority must consider written submissions received during the exhibition period under section 6.48.
- (2) A master plan approved by the appropriate authority—



- (a) must be published on the NSW planning portal, and
  - (b) takes effect on the day of the publication.
- (3) A master plan may be amended by another master plan.
- (4) An amendment to a master plan may be dealt with concurrently with a development application.

#### **6.50 Consideration of master plan**

- (1) Development consent must not be granted to development on a strategic foreshore site unless—
- (a) a master plan has been approved for the strategic foreshore site or for the part of the strategic foreshore site on which the development will be carried out, and
  - (b) the consent authority has considered the master plan.
- (2) The Minister may determine subsection (1) does not apply to specified development if the Minister is satisfied a master plan is unnecessary because of—
- (a) the nature of the development, or
  - (b) the fact that the development will affect only a small portion of the relevant strategic foreshore site, having regard to the overall size of the site, or
  - (c) the adequacy of other planning controls applying to the development, or
  - (d) another reason the Minister considers sufficient.
- (3) The Minister must not make the determination unless the Minister is satisfied the development will not compromise the matters specified in section 6.47(3).
- (4) If the Minister makes a determination and is not the consent authority for the development, the Minister must give written notice of the determination to the consent authority.

## **Part 6.4 Heritage conservation in Sydney Harbour**

### **6.51 Application of Part**

This Part applies to land in the Sydney Harbour catchment that is—

- (a) shown on the Heritage Map for the purposes of identifying a heritage item, or
- (b) an Aboriginal place of heritage significance.

**Note—** Heritage items, other than Aboriginal places of heritage significance, are listed in Schedule 5.

### **6.52 Heritage development**

In this Part—

**heritage development** means development that involves one or more of the following—

- (a) demolishing or moving, or altering the exterior, including by changing the detail, fabric, finish or appearance of a building, of—
  - (i) a heritage item, or
  - (ii) an Aboriginal object, or

- (iii) a building, work, relic or tree within a place or site that is a heritage item,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on, or subdividing, land—
  - (i) on which a heritage item or Aboriginal object is located, or
  - (ii) within a place or site that is a heritage item,
- (f) development near a heritage item, including development that—
  - (i) may have an impact on the setting of the heritage item, including by affecting a significant view to or from the item or by overshadowing, or
  - (ii) may undermine or otherwise cause physical damage to the heritage item, or
  - (iii) will otherwise have an adverse impact on the heritage significance of the heritage item.

### **6.53 Requirement for development consent**

- (1) Heritage development may be carried out only with development consent.
- (2) Despite subsection (1), development consent is not required for the following development—
  - (a) development that—
    - (i) is in a cemetery or burial ground, and
    - (ii) is the creation of a new grave or monument, or excavation or disturbance of land for the purposes of conserving or repairing monuments or grave markers, and
    - (iii) will not cause disturbance to human remains, relics or Aboriginal objects in the form of grave goods or to an Aboriginal place of heritage significance,
  - (b) development that involves only the removal of a tree or other vegetation the consent authority is satisfied is a risk to human life or property.
- (3) The consent authority may, before work is carried out, give written notice to an applicant for development consent for heritage development that development consent is not required if the consent authority is satisfied the development—
  - (a) is of a minor nature or is for the maintenance of—
    - (i) a heritage item, or
    - (ii) a building, work, relic, tree or place on a site that is a heritage item, or
    - (iii) an Aboriginal object, or
    - (iv) an archaeological site, and
  - (b) will not adversely affect the heritage significance of the item, object or site.

- (4) In deciding whether to grant development consent to heritage development, the consent authority must consider the effect of the development on the heritage significance of the item, object or site.
- (5) In considering the effect of heritage development under subsection (4), the consent authority must consider the following—
  - (a) the heritage significance of the item, object or site as part of the environmental heritage of the land to which this Part applies,
  - (b) the impact of the development on the heritage significance of the item, object or site and its setting, including landscape or horticultural features,
  - (c) the measures proposed to conserve the heritage significance of the item, object or site and its setting,
  - (d) whether an archaeological site will be adversely affected by the development,
  - (e) the extent to which the development will affect the form of historic subdivisions,
  - (f) other matters the consent authority considers relevant.

#### **6.54 Aboriginal places of heritage significance**

- (1) This section applies to heritage development that is—
  - (a) in an Aboriginal place of heritage significance, or
  - (b) likely to have an impact on an Aboriginal place of heritage significance.
- (2) The consent authority must, within 14 days of the lodgment of a development application for heritage development to which this section applies, give written or other appropriate notice of the development to the local Aboriginal communities.
- (3) Development consent must not be granted to heritage development to which this section applies unless the consent authority has considered the following—
  - (a) after adequate investigation and assessment, the impact of the development on—
    - (i) the heritage significance of the Aboriginal place of heritage significance, and
    - (ii) any Aboriginal object known or reasonably likely to be located at the place,
  - (b) submissions received from the local Aboriginal communities within 28 days after notice is given under subsection (2).
- (4) The investigation and assessment under subsection (3)(a) may include consideration of proposals for measures to minimise the impact.

#### **6.55 Archaeological sites**

- (1) Development consent must not be granted to heritage development that is on an archaeological site unless the consent authority has—
  - (a) notified the Heritage Council of the heritage development, and
  - (b) considered any submissions made by the Heritage Council within 28 days after the notice is given.
- (2) This section does not apply to land—

- (a) listed on the State Heritage Register under the *Heritage Act 1977*, or
- (b) to which an interim heritage order under the *Heritage Act 1977* applies.

#### **6.56 Demolition of nominated State heritage items**

- (1) Development consent must not be granted to the demolition of a nominated State heritage item unless the consent authority has—
  - (a) notified the Heritage Council of the demolition, and
  - (b) considered any submissions made by the Heritage Council within 28 days after the notice is given.
- (2) In this section—  
***nominated State heritage item*** means a heritage item that—
  - (a) is identified as an item of State significance in a publicly exhibited heritage study adopted by a council, and
  - (b) the council has, by written notice to the Heritage Council, nominated as an item of potential State significance.

#### **6.57 Conservation incentives**

- (1) This section applies to development that—
  - (a) involves a building that is a heritage item, or
  - (b) is on land on which a building that is a heritage item is located, or
  - (c) is in an Aboriginal place of heritage significance.
- (2) Development consent may be granted to development to which this section applies, even if the development would otherwise be prohibited under this Chapter, if the consent authority is satisfied of the following—
  - (a) the conservation of the heritage item or Aboriginal place of heritage significance will be facilitated by the granting of development consent,
  - (b) if a heritage management document or other document approved by the consent authority contains guidelines for the ongoing management and conservation of, or proposals to minimise the impact of development on, the heritage item or Aboriginal place of heritage significance—the development will be consistent with the guidelines or proposals,
  - (c) the development will not adversely affect the heritage significance of—
    - (i) the heritage item, including its setting, or
    - (ii) the Aboriginal place of heritage significance,
  - (d) the development will not have a significant adverse effect on the amenity of the surrounding area.

## **Part 6.5 Sydney Drinking Water Catchment**

#### **6.58 Objectives of Part**

The objectives of this Part are—

- (a) to provide for healthy water catchments that will deliver high quality water to the Sydney area while also permitting compatible development, and
- (b) to provide for development in the Sydney Drinking Water Catchment to have a neutral or beneficial effect on water quality.

## 6.59 Definitions

In this Part—

**NorBE Guideline** means the document titled *Neutral or Beneficial Effect on Water Quality Assessment Guideline 2022* published by Water NSW on the date on which *State Environmental Planning Policy Amendment (Water Catchments) 2022* commences.

**NorBE Tool** means the tool titled *Neutral or Beneficial Effect on Water Quality Assessment Tool* set out in Appendix 1 to the NorBE Guideline.

**Regulatory Authority** has the same meaning as in the *Water NSW Act 2014*.

## 6.60 Declaration of Sydney drinking water catchment

For the Act, section 3.26(1), the Sydney catchment area, within the meaning of the *Water NSW Act 2014*, is declared to be the Sydney drinking water catchment.

**Note—** The *Water NSW Act 2014*, Schedule 2, clause 17 provides that the Sydney catchment area is taken to be the area defined as the **catchment area** under the repealed *Sydney Water Catchment Management Act 1998* (the **repealed Act**). Declarations under the repealed Act, section 41 were published in Government Gazette No 76 of 2 July 1999, pp 4648 and 4649.

## 6.61 Requirement of neutral or beneficial effect on water quality

- (1) Development consent must not be granted to development relating to any part of the Sydney Drinking Water Catchment unless the consent authority is satisfied the carrying out of the development would have a neutral or beneficial effect on water quality.

**Note—** See the Act, section 3.26(2).

- (2) For the purposes of determining whether the carrying out of the development would have a neutral or beneficial effect on water quality, the consent authority must, if the development is development to which the NorBE Tool applies, undertake an assessment using the NorBE Tool.
- (3) The NorBE Tool applies to development requiring development consent under the Act, Part 4, other than State significant development.

## 6.62 Neutral or beneficial effect on water quality—extension or expansion of existing development

- (1) This section applies if—
  - (a) development consent was granted to continuing development (the **existing development consent**), and
  - (b) a development application is made for development consent to development to extend or expand the continuing development (the **additional development**), and
  - (c) the development application is made before the authority conferred by the existing development consent expires or is exhausted.
- (2) For section 6.61(1), the carrying out of the additional development will have a neutral or beneficial effect on water quality if it will have the same or a lesser adverse impact on water quality than the adverse impact the continuing development would have if it were extended or expanded under similar conditions to the existing development consent.

**Note—** See the Act, section 3.26(2A).

- (3) This section extends to an existing development consent that will be surrendered if development consent is granted to the additional development.

(4) In this section, a reference to an existing development consent includes a reference to a project that was approved under the Act, Part 3A before its repeal, or granted after its repeal under the Act, Schedule 6A or the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, Schedule 2.

(5) In this section—  
**continuing development** means development for which development consent was limited to the carrying out of the development for a particular time, in a particular area or at a particular intensity, but which was likely to be the subject of future applications for development consent for its extension or expansion.

**Example—** Development for the purposes of mining could be continuing development.

#### **6.63 Requirement of consistency with NorBE Guideline**

Development consent must not be granted to development on land in the Sydney Drinking Water Catchment unless the consent authority is satisfied the development is consistent with the NorBE Guideline.

#### **6.64 Concurrence of Regulatory Authority**

(1) Development consent must not be granted to development on land in the Sydney Drinking Water Catchment unless the consent authority has obtained the concurrence of the Regulatory Authority.

(2) For the Act, section 3.18(3), the Regulatory Authority must consider the following matters in deciding whether to grant concurrence—

- (a) the NorBE Guideline,
- (b) whether the development will have a neutral or beneficial effect on water quality.

(3) The consent authority must, within 10 days after determining a development application that required the concurrence of the Regulatory Authority, give a copy of the determination of the development application to the Regulatory Authority.

(4) This section does not apply if the consent authority is satisfied the development has no potential impact on water quality.

## **Part 6.6 Miscellaneous**

#### **6.65 Savings and transitional provisions**

(1) The former provisions continue to apply, and the other provisions of this Chapter do not apply, to an application for development consent lodged, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Water Catchments) 2022*.

(2) A master plan adopted and in force under section 10.46 immediately before its repeal by *State Environmental Planning Policy Amendment (Water Catchments) 2022* is taken, on and from the commencement of this Chapter, to have effect as a master plan within the meaning of Part 6.3, Division 5.

(3) In this section—  
**former provisions** means—

- (a) Chapters 6–12 as in force immediately before their repeal by *State Environmental Planning Policy Amendment (Water Catchments) 2022*, and

- (b) the provisions of each environmental planning instrument amended by *State Environmental Planning Policy Amendment (Water Catchments) 2022* that would be in force if the instrument had not been amended by that Policy.

**[2] Schedules 5 and 6**

Omit Schedules 5–13. Insert instead—

**Schedule 5 Sydney Harbour heritage items for Chapter 6**

Schedule 6, definition of “heritage item”

**Note—** The word “State” in the column headed “Significance” identifies items listed on the State Heritage Register that have been assessed in a relevant heritage study as being of State heritage significance or are listed in a register kept under the *Heritage Act 1977*, section 170.

Locality	Name of item	Address	Significance	Item no
Canada Bay	Newington College boat shed and grounds	Checkley Street, Abbotsford		1
Canada Bay	Abbotsford Jetty	Great North Road, Abbotsford		2
Canada Bay	Former Cabarita Wharf	Cabarita Park, Cabarita		3
Canada Bay	Sanders Marina	Cabarita Park, Cabarita		4
Canada Bay	Stone Wharf, Blackwall Point	11 Bortfield Drive, Chiswick		5
Canada Bay	Site of former swimming baths at Hen and Chicken Bay	Bayview Park, Concord		6
Canada Bay	Clovelly House boat shed	Drummoyne Avenue, Drummoyne		7
Canada Bay	Federation House boat shed	Drummoyne Avenue, Drummoyne		8
Canada Bay	Wharves/Reclaimed Land, access from Peppercorn Reserve and Salton Reserve	St Georges Crescent, Drummoyne		9
Canada Bay	Thompson Street Wharves	Thompson Street and Henley Marine Drive, Drummoyne		10
Canada Bay	Wolseley Street Wharf	Wolseley Street, Drummoyne		11
Canada Bay	Federation House boat shed only	87 Llewellyn Street, Rhodes		12
Canada Bay	Stone wharf	91 Llewellyn Street, Uhrs Point, Rhodes		13
Canada Bay	Stone retaining walls	Five Dock Bay		14
Canada Bay	Stone retaining walls	Hen and Chicken Bay		15
Hunters Hill	Hunters Hill Wharf and Waiting Shed	453 Ferry Street, Hunters Hill		16

<b>Locality</b>	<b>Name of item</b>	<b>Address</b>	<b>Significance</b>	<b>Item no</b>
Hunters Hill	Remains of bath	Boronia Park, Hunters Hill		17
Inner West	Urban Transit Authority Ferry Maintenance Depot	Alexander and Waterview Streets, Balmain	State	18
Inner West	Cove Street Wharf	Cove Street, Balmain		19
Inner West	Elliott Street Wharf	Elliott Street, Balmain		20
Inner West	Dawn Fraser Swimming Pool	Glassop Street, Balmain	State	144
Inner West	Waterview Wharf Workshops	37 Nicholson Street, Balmain	State	145
Inner West	Site of Rowntree's Floating Dock	Hart Street and The Avenue, Balmain		21
Inner West	Punch Street Wharf	Punch Street, Balmain		22
Inner West	Tidal pool	13 Simmons Street, Balmain		23
Inner West	Site and remains of former Morts Dock	Thames, Mort, College, McKell, Cameron and Yeend Streets, Balmain	State	24
Inner West	Site and remains of ferry wharf	Yeend Street, Balmain		25
Inner West	Remains of former Tasmanian Ferry Terminal	Yeend Street, Balmain		26
Inner West	Long Nose Point Wharf	Louisa Road, Birchgrove		27
Inner West	Boat sheds only	Louisa Road, opposite steps to Deloitte Avenue, Birchgrove		28
Inner West	Leichhardt Wharf	Leichhardt Park, Leichhardt		29
Inner West	Former Callan Park Hospital Wharf	Rozelle Hospital, Rozelle		30
Inner West	Stone retaining walls	Iron Cove		31
Ku-ring-gai	Remains of old Roseville Bridge	Babbage Road, Roseville		32
Ku-ring-gai	Site of Echo Point Farm, including slipway	Echo Point Park, Babbage Road, Roseville		33
Ku-ring-gai	Remains of Roseville Baths	99 Babbage Road, Roseville		34
Lane Cove	Electricity Tunnel	Foreshore of Manns Point Reserve, Greenwich		35
Lane Cove	Boat shed and slips	O'Connell and Albert Streets, Greenwich		36



<b>Locality</b>	<b>Name of item</b>	<b>Address</b>	<b>Significance</b>	<b>Item no</b>
Mosman	Stone wharf—Bradley’s Head	National Park, Bradley’s Head		37
North Sydney	Lavender Bay Ferry Wharf	Walker Street, Kirribilli		38
North Sydney	Brett Whiteley House and visual curtilage	1 Walker Street, Lavender Bay and the waters of Lavender Bay	State	39
North Sydney	Sydney Harbour Queen	Moored in Berrys Bay, Waverton (formerly moored west of Luna Park, Milsons Point)		40
North Sydney	Site of Cavill’s Baths	Foreshore of Lavender Bay		41
North Sydney	Head of Shell Cove	Bogota Avenue, Cremorne Point and the waters of Shell Cove		42
Northern Beaches	Grotto Point lighthouse and remains of former wharf	Grotto Point, Balgowlah		43
Northern Beaches	Fairlight Pool	Lauderdale Avenue, Fairlight		44
Northern Beaches	Bantry Bay Public Powder Magazine	Foreshores of Bantry Bay, Killarney Heights		45
Northern Beaches	Flat Rock Landing Place	Killarney Drive, Killarney Heights		46
Northern Beaches	Former Killarney picnic ground, including wharf	Garigal National Park, Mosman Rowing Club, Killarney Drive, Killarney Heights		47
Northern Beaches	Remains of Manly Public Baths	East Esplanade, Manly		48
Northern Beaches	Little Manly Cove Pool	Stuart Street, Manly		49
Northern Beaches	Site and remains of Brightside cargo wharf	Stuart Street, Manly		50
Northern Beaches	Site and remains of harbour side pool and steps	Stuart Street, Manly		51
Northern Beaches	Manly Wharf	The Esplanade, Manly	State	52
Parramatta	Industrial Wharves	33 Grand Avenue, Camellia		53
Parramatta	Former McDonald Farm Wharf	George Kendall Reserve, Ermington		54
Parramatta	Wharf and reserve	George Kendall Reserve, Ermington		55
Parramatta	Former Spurway Street Wharf	Spurway Street, Ermington		56

<b>Locality</b>	<b>Name of item</b>	<b>Address</b>	<b>Significance</b>	<b>Item no</b>
Parramatta	Former Pennant Hills Wharf	Wharf Road, Ermington		57
Parramatta	Log ponds and wharves to timber yards	Bennelong Point, Homebush Bay		58
Parramatta	Newington Arms Depot Wharf	Newington Arms Depot, Silverwater		59
Parramatta	Shell Oil Refinery Wharf	Duck River		60
Ryde	Scots College boat shed	3 Delmar Parade, Gladesville		61
Ryde	Punt Road Wharf	Punt Road, Gladesville		62
Ryde	Former Gladesville Wharf	Wharf Road, Looking Glass Point, Gladesville		63
Ryde	Sydney Grammar School boat shed	88 Wharf Road, Gladesville		64
Ryde	Meadowbank Rail Bridge over Parramatta River	Main Northern railway, Meadowbank	State	65
Ryde	Private Wharf	Below Rothesay Avenue, Meadowbank		66
Ryde	Putney Wharf	Putney Parade, Putney		67
Ryde	Naval Refit Centre	Waterview Street, Putney	State	68
Ryde	Former Ryde Wharf	Parsonage and Belmore Streets, Ryde		69
Ryde	Former swimming baths	End of Regent Street and Osborne Avenue, Ryde		70
Ryde	Timber wharves	Both sides of Ryde Railway Bridge, Ryde		71
Ryde	Former Log Road and private wharf	Continuation of Cobham Street, Melrose Park, West Ryde		72
Sydney	Ferry wharves	Alfred Street, Circular Quay	State	73
Sydney	Site of Ithaca Road ferry wharf	Ithaca Road, Elizabeth Bay		74
Sydney	Walsh Bay Wharves Precinct	Hickson Road, Millers Point	State	75
Sydney	Pymont Bridge	Sydney	State	76
Sydney	Man O'War Steps	Farm Cove Crescent, Sydney	State	77
Sydney	Remains of the former Andrew (Boy) Charlton Pool	Mrs Macquarie's Road, Sydney		78
Sydney	Site of Robinson's Baths	Mrs Macquarie's Road, Sydney		79

Locality	Name of item	Address	Significance	Item no
Sydney	Former Woolloomooloo Deep Sea Wharves Nos 6, 7, 8, 9 and 11, Cargo Sheds at Cowper Wharf Road and Lincoln Crescent, Woolloomooloo, and the land and waterway between Wharf No 11 and the other wharves	Cowper Wharf Road and Lincoln Crescent, Woolloomooloo	State	80
Sydney	Garden Island Precinct— (a) Former residences for overseers (b) Building 37—rigging shed, including chapel (c) Buildings 31 and 32—registry offices (d) Building 88—battery shed (e) Buildings 95 and 99—workshop and factory (f) Building 89—naval stores (g) Building 27—office building (h) Buildings 16/17 and 18/19/20—residences (i) Building 98—core shop (j) Building 25—boat shed (k) Buildings 7 and 8—workshop and store (l) Figurehead of ship “Windsor Castle” (m) Figurehead of ship “Consuela” (n) Former garden (o) Former “Clarens” garden remains	Off Cowper Wharf Road, Garden Island	State	81
Willoughby	Remains of HC Press picnic ground and public baths	Cammeray Road, Castle Cove		82
Willoughby	Willis Road wharf	Willis Road, Castle Cove		83

<b>Locality</b>	<b>Name of item</b>	<b>Address</b>	<b>Significance</b>	<b>Item no</b>
Willoughby	Stone walls, steps and baths	213–217B Edinburgh Road, Castlecrag		84
Willoughby	Former Horsley’s boat shed and sea wall, now a house	217B Edinburgh Road, Castlecrag		85
Willoughby	Remains of Municipal Baths, structures and access steps	241 Edinburgh Road, Castlecrag		86
Willoughby	Stone walls	297A Edinburgh Road, Castlecrag		87
Willoughby	Site and remains of early wharfage, now Castlecrag Marina	Rockley Street, Castlecrag		88
Willoughby	Sailors Bay boat shed	Clive Park, Northbridge		89
Willoughby	Site and remains of wharfage	Fig Tree Point, Hallstrom Close, Northbridge		90
Woollahra	Camp Cove tide gauge	Cliff Street, Camp Cove		91
Woollahra	Remains of Bath House and site of jetty	Darling Point Road, Darling Point		92
Woollahra	HMAS Rushcutter slipways	9 New Beach Road, Darling Point		93
Woollahra	Site of public wharf, now a new wharf	Bay Street, Double Bay		94
Woollahra	Gladswood House private jetty	11 Gladswood Gardens, Double Bay		95
Woollahra	Site of wharf	Wingadal Place, Point Piper		96
Woollahra	Chinese boat shed	20 Wolseley Road, Point Piper		97
Woollahra	Group of remains of wharf, baths and waterfront relics, including former Tivoli Pier and former Thorne’s (or Claremont) Wharf	Bayview Hill Road, Rose Bay		98
Woollahra	Site of former Rose Bay Flying Boat Base	Lyne Park, Rose Bay		99
Woollahra	Site of public baths	Lyne Park, Rose Bay		100
Woollahra	Remains of Western Rose Bay ferry wharf	New South Head Road, Rose Bay		101
Woollahra	West Parsley Bay obelisk	65 Fitzwilliam Road, Vaucluse		102
Woollahra	Remains of Vaucluse Point ferry wharf	83 Fitzwilliam Street, Vaucluse		103
Woollahra	Nielsen Park and Hermitage Foreshore Reserve	Greycliffe Avenue, Vaucluse	State	104

<b>Locality</b>	<b>Name of item</b>	<b>Address</b>	<b>Significance</b>	<b>Item no</b>
Woollahra	Former Nielsen Wharf remains	Steel Point, Vaucluse		105
Woollahra	East Parsley Bay obelisk	Between properties 36A and 38, The Crescent, Vaucluse		106
Woollahra	Parsley Bay Ferry Wharf	The Crescent, Vaucluse		107
Woollahra	Hermit Bay Wharf, slipway and landing	Vaucluse Road, Vaucluse		108
Woollahra	Vaucluse Baths	68 Wentworth Road, Vaucluse		109
Woollahra	Site of Village Point Wharf (Kutti Beach Ferry Wharf)	Wharf Road, Vaucluse		110
Woollahra	Watsons Bay Pool	Marine Parade, Watsons Bay		111
Woollahra	Pilot Station	Marine Parade and Salisbury Street, Watsons Bay		112
Woollahra	Remains of old Watsons Bay Pool	Marine Parade and Salisbury Street, Watsons Bay		113
Woollahra	Ferry Pier	Military Road, Watsons Bay		114
Woollahra	Green Point obelisk	Off Pacific Street, Watsons Bay		115
—	Goat Island, including former harbour master's residence, pathway from magazine precinct to water police station precinct, former ordinance magazine, former laboratory and original cooperage, former cooperage, wall gate and sentry post, entry to magazine area, former barracks, former kitchen, Andersons Couch, lime kiln, Barney's Cut, former water police station	Sydney Harbour	State	116
—	Shark Island	Sydney Harbour		117
—	Clark Island	Sydney Harbour		118
—	Cockatoo Island		State	119
—	Spectacle Island		State	120
—	Snapper Island			121
—	Rodd Island	Iron Cove	State	122

<b>Locality</b>	<b>Name of item</b>	<b>Address</b>	<b>Significance</b>	<b>Item no</b>
—	Fort Denison, Sydney Harbour	Sydney Harbour	State	123
—	Sydney Harbour Bridge, including road and rail approaches and viaducts	Port Jackson	State	124
—	Glebe Island Bridge, including abutments	Blackwattle Bay	State	125
—	The Spit Bridge	Spit Road, Balgowlah/Mosman	State	126
—	Iron Cove Bridge	Iron Cove		127
—	Gladesville Bridge, including abutments		State	128
—	Ryde Bridge	Church Street, Ryde to Concord Road, Rhodes		129
—	Navigation light tower— western channel (Georges Head)	Sydney Harbour		130
—	Navigation light tower— eastern channel (Bottle and Glass Rocks)	Sydney Harbour		131
—	Navigation light tower	Off Shark Island, Sydney Harbour		132
—	Wreck of “Itata” and wrecks of other unnamed vessels	Salt Pan Creek, Middle Harbour		133
—	Wreck of Maritime Services Board Hopper Barge	Foreshores of Berrys Bay, Sydney Harbour		134
—	Wreck of “Catherine Adamson”	Old Man’s Hat, North Harbour, Sydney Harbour		135
—	Wreck of “Centennial”	Taylors Bay, Sydney Harbour		136
—	Wreck of “Centurion”	Cannae Point, North Head, Sydney Harbour		137
—	Wreck of “Currajong”	Off Bradleys Head, Sydney Harbour		138
—	Wreck of “Edward Lombe”	Middle Harbour		139
—	Wreck of “Fame”	Sow and Pigs Shoal, Sydney Harbour		140
—	Wreck of Hopper Barge	150m east of Clark Island		141
—	Balmain to Greenwich Tunnel, including docking facilities and service buildings	Under harbour, from Long Nose Point, Balmain to Manns Point, Greenwich	State	142

Locality	Name of item	Address	Significance	Item no
—	Searles Monument	The Brothers, off Blackwall Point, Henley, Parramatta River	State	143

## Schedule 6 Dictionary for Chapter 6

section 6.2

**Aboriginal place of heritage significance** means—

- (a) an area of land that is the site of 1 or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people, being an area that may, but need not, include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) an area of land that is a natural Aboriginal sacred site or other sacred feature, being an area that includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance, or
- (c) a place described as an Aboriginal place of heritage significance in an inventory kept by the Department, including an inventory kept by the Department under *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* before its repeal.

**above-water boat lift** means a device used for lifting or steering a vessel out of water to store the vessel above water.

**aid to navigation** means a buoy, sign, light or other structure, whether located wholly on land, wholly on the zoned waterway or partly on land and partly on the zoned waterway, that is designed to assist the safe and efficient movement of vessels on the zoned waterway.

**appropriate authority**, for Part 6.3, Division 5—see section 6.44.

**aquatic ecology** means the interaction between organisms and the biotic and abiotic components of a waterway.

**aquatic reserve** has the same meaning as in the *Marine Estate Management Act 2014*.

**aviation facility** means an area of the zoned waterway set aside, or a structure provided, for the purposes of aircraft landing or taking off.

**boat launching ramp** means a structure, designed primarily for the launching of trailer-borne recreational vessels, that is generally available for public use, and includes associated car parking facilities.

**boat lift** means a device used for lifting or steering a vessel out of water, but does not include an above-water boat lift or a device that forms part of a boat building and repair facility or a marina.

**boat storage facility** includes—

- (a) a marina, and
- (b) a boat shed, and
- (c) a floating boat platform, and
- (d) a boat building and repair facility that includes the storage of boats.

**commercial port facility** means a structure—

- (a) used in connection with the carrying of goods or persons by water from 1 port to another for business or commercial purposes, and
- (b) with a direct structural connection between the foreshore and the zoned waterway.

**demolish**, in relation to an item, means wholly or partly destroy, dismantle or deface the item.

**dredging** means the removal of material from the sea, harbour bed or bed of a river for the purposes of constructing a new or deeper navigational area or channel or reopening a discontinued navigational area or channel, but does not include intertidal dredging or maintenance dredging.

**ecological community** has the same meaning as in the *Biodiversity Conservation Act 2016*.

**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.

**flood liable land**, for Part 6.2—see section 6.5.

**flora and fauna enclosure** means a net or other structure used for the purposes of protecting or encouraging the growth of flora and fauna, including a structure used for the observation of flora and fauna or for the maintenance of the net or other structure.

**foreshore** includes land with a water frontage and land that is separated from the waterfront by a public reserve, road or open space.

**Foreshores and Waterways Area** means the area identified as the Foreshores and Waterways Area on the Foreshores and Waterways Area Map.

**Foreshores and Waterways Area Map** means the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Sydney Harbour Foreshores and Waterways Area Map.

**general restoration works** means works carried out for the purposes of restoring or enhancing the natural values of a foreshore or waterway.

**Georges River Catchment** means the water catchment identified as the Georges River Catchment on the Georges River Catchment Map.

**Georges River Catchment Map** means the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Georges River Catchment Map.

**Hawkesbury-Nepean Catchment** means the water catchment identified as the Hawkesbury-Nepean Catchment on the Hawkesbury-Nepean Catchment Map.

**Hawkesbury-Nepean Catchment Map** means the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Hawkesbury-Nepean Catchment Map.

**Hawkesbury-Nepean conservation area sub-catchment** means the following sub-catchments identified on the Hawkesbury-Nepean Catchment Map—

- (a) the Colo River sub-catchment,
- (b) the Glenbrook and Erskine Creek sub-catchment,
- (c) the Grose River sub-catchment,
- (d) the Macdonald River sub-catchment,
- (e) the Webbs Creek sub-catchment.

**heritage development**, for Part 6.4—see section 6.52.

**heritage item** means—

- (a) a building, work, archaeological site or other site or place described in Schedule 5 and identified on the Heritage Map, and
- (b) an Aboriginal place of heritage significance.

**Heritage Map** means the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Sydney Harbour Heritage Map.

**houseboat** means a vessel or structure that floats on, or is fixed in, the zoned waterway and is used for the purposes of providing permanent residential accommodation.



**intertidal dredging** means the removal of material from the sea, harbour bed or bed of a river in the intertidal zone, but does not include maintenance dredging.

**intertidal zone** means the area between—

- (a) the zero tide, namely the water mark corresponding to a tide measuring zero on the Fort Denison Tide Gauge, or -0.925m Australian Height Datum, and
- (b) the highest astronomical tide, namely the water mark corresponding to a tide measuring 2.1m above zero on the Fort Denison Tide Gauge, or 1.175m Australian Height Datum.

**local government area** means an area within the meaning of the *Local Government Act 1993*.

**maintenance dredging** means removal of material from the sea, harbour bed or bed of a river for the purposes of maintaining the previously established harbour or river depth.

**master plan**, for Part 6.3, Division 5—see section 6.44.

**mean high water mark** means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore and is taken, for Part 6.3, to be 1.48m above zero on the Fort Denison Tide Gauge or 0.555m Australian Height Datum.

**naval activities** means activities carried out by or on behalf of the Royal Australian Navy within the meaning of the *Defence Act 1903* of the Commonwealth, section 18.

**NorBE Guideline**, for Part 6.5—see section 6.59.

**NorBE Tool**, for Part 6.5—see section 6.59.

**private landing facility** means a structure, including a wharf, jetty or pontoon, that is used to enable passengers to embark or disembark a vessel or to load or unload goods and is not generally available for public use, but does not include a facility associated with a marina.

**private landing steps** means steps that are used for launching and retrieving vessels and are not generally available for public use, but does not include private landing facilities or a facility associated with a marina.

**private marina** means an apparatus or structure located on or in a waterway that—

- (a) is used for restraining 2 or more vessels, and
- (b) is privately owned and not generally available for public use.

**private swimming enclosure** means a net or other structure that is placed in the zoned waterway for the purposes of providing a protected swimming area and is not generally available for public use, but does not include a water recreation structure.

**public boardwalk** means a decked structure, supported by piers or piles, providing public pedestrian access extending over or beyond the intertidal zone, but does not include a structure intended only to provide direct access to a vessel.

**public water transport facility** means a structure used primarily in connection with transporting the public by water.

**reclamation work** means work involving—

- (a) the filling or draining of submerged land for the purposes of reclaiming the land, or
- (b) the filling of submerged land for the purposes of supporting a building or structure, including a bridge, being erected over the land.

**recreational or club facility** means a building or place used exclusively for sporting or leisure activities, whether operated for gain or not.

**regulated catchment** means the following—

- (a) the Sydney Drinking Water Catchment,
- (b) the Sydney Harbour Catchment,
- (c) the Georges River Catchment,
- (d) the Hawkesbury-Nepean Catchment.

**Regulatory Authority**, for Part 6.5—see section 6.59.

**riparian vegetation**, for Part 6.2—see section 6.5.

**Riverine Scenic Area** means an area identified on the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Hawkesbury-Nepean Riverine Scenic Area Map as—

- (a) an area of local significance, or
- (b) an area of regional significance, or
- (c) an area of significance beyond the region.

**Rocky Foreshores and Significant Seagrasses Map** means the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Sydney Harbour Rocky Foreshores and Significant Seagrasses Map.

**seabed clearance** means the distance to the seabed from the underside of a floating boat platform.

**seagrass** has the same meaning as in the *Fisheries Management Act 1994*, section 205.

**single mooring** means an apparatus or structure located on or in the zoned waterway and designed, constructed or used for restraining a single vessel, but does not include a mooring pen or a facility associated with a marina.

**skid** means an inclined ramp used for the manual launching of small craft, but does not include a slipway.

**slipway** means a structure, usually in the form of 2 supported parallel rails on which a wheeled cradle is run, to draw a vessel out of the water for maintenance and repair, other than a structure that forms part of a boat building and repair facility or a marina.

**Special Purposes (Marinas and Boat Building and Repair Facilities) Map** means the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Sydney Harbour Special Purposes (Marinas and Boat Building and Repair Facilities) Map.

**Standard Instrument** means the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**strategic foreshore site**, for Part 6.3, Division 5—see section 6.44.

**Strategic Foreshore Sites Map**, for Part 6.3, Division 5—see section 6.44.

**Sydney Drinking Water Catchment** or **Sydney drinking water catchment** means the water catchment declared by section 6.60.

**Sydney Harbour Catchment** means the water catchment identified as the Sydney Harbour Catchment on the Sydney Harbour Catchment Map.

**Sydney Harbour Catchment Map** means the State Environmental Planning Policy (Biodiversity and Conservation) 2021 Sydney Harbour Catchment Map.

**tourist facility** means a building or place, including a hotel or motel but not including a caravan park, that is used by tourists or holiday-makers 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 serving the needs of tourists and holiday-makers using the building or place.

**TfNSW** means Transport for NSW constituted under the *Transport Administration Act 1988*.

**view** includes a night view.

**water-based restaurant and entertainment facility** means a vessel or structure that—

- (a) floats on, or is fixed in, the zoned waterway, and
- (b) is used as a club or restaurant or for entertainment on a commercial basis, and
- (c) has a direct structural connection between the foreshore and the zoned waterway.

***waterfront access stairs*** means stairs or a ramp used for pedestrian access to the foreshore, but does not include stairs or a ramp used only for launching vessels or for providing direct access to a vessel on the zoned waterway.

***zoned waterway*** means the part of the Foreshores and Waterways Area in Zone 1, 2, 3, 4, 5, 6, 7, 8 or 9.

## **Schedule 2      Amendment of local environmental plans**

### **[1]      Public bushland optional provision for standard local environmental plans**

Insert clause 5.23 from the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* in the following local environmental plans—

*Ashfield Local Environmental Plan 2013*  
*Auburn Local Environmental Plan 2010*  
*Bankstown Local Environmental Plan 2015*  
*Bayside Local Environmental Plan 2021*  
*Blacktown Local Environmental Plan 2015*  
*Burwood Local Environmental Plan 2012*  
*Camden Local Environmental Plan 2010*  
*Campbelltown Local Environmental Plan 2015*  
*Canada Bay Local Environmental Plan 2013*  
*Canterbury Local Environmental Plan 2012*  
*Central Coast Local Environmental Plan 2022*  
*Fairfield Local Environmental Plan 2013*  
*Georges River Local Environmental Plan 2021*  
*Holroyd Local Environmental Plan 2013*  
*Hornsby Local Environmental Plan 2013*  
*Hunters Hill Local Environmental Plan 2012*  
*Ku-ring-gai Local Environmental Plan 2015*  
*Lake Macquarie Local Environmental Plan 2014*  
*Lane Cove Local Environmental Plan 2009*  
*Leichhardt Local Environmental Plan 2013*  
*Liverpool Local Environmental Plan 2008*  
*Manly Local Environmental Plan 2013*  
*Marrickville Local Environmental Plan 2011*  
*Mosman Local Environmental Plan 2012*  
*North Sydney Local Environmental Plan 2013*  
*Parramatta (former The Hills) Local Environmental Plan 2012*  
*Parramatta Local Environmental Plan 2011*  
*Penrith Local Environmental Plan 2010*  
*Pittwater Local Environmental Plan 2014*  
*Randwick Local Environmental Plan 2012*  
*Ryde Local Environmental Plan 2010*  
*Ryde Local Environmental Plan 2014*  
*Strathfield Local Environmental Plan 2012*  
*Sutherland Shire Local Environmental Plan 2015*  
*Sydney Local Environmental Plan 2012*  
*Sydney Local Environmental Plan (Harold Park) 2011*  
*The Hills Local Environmental Plan 2019*  
*Warringah Local Environmental Plan 2011*  
*Waverley Local Environmental Plan 2012*  
*Willoughby Local Environmental Plan 2012*

*Wollondilly Local Environmental Plan 2011*  
*Woollahra Local Environmental Plan 2014*

**[2] Flood planning—non-standard local environmental plans**

Insert clause 5.21 from the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* in the local environmental plans specified in Column 1 of the following table at the end of the matter specified opposite in Column 2, with appropriate clause numbering—

<b>Column 1</b>	<b>Column 2</b>
<i>Blue Mountains Local Environmental Plan 1991</i>	Matter headed “ <b>Special provisions</b> ”
<i>Blue Mountains Local Environmental Plan 2005</i>	Part 2, Division 3
<i>Blue Mountains Local Environmental Plan No 4</i>	Part 3, Division 6
<i>Hurstville Local Environmental Plan 1994</i>	Part 3

**[3] Public bushland—non-standard local environmental plans**

Insert clause 5.23 from the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* in the local environmental plans specified in Column 1 of the following table at the end of the matter specified opposite in Column 2, with appropriate clause numbering—

<b>Column 1</b>	<b>Column 2</b>
<i>Hurstville Local Environmental Plan 1994</i>	Part 3
<i>Lake Macquarie Local Environmental Plan 2004</i>	Part 4
<i>Leichhardt Local Environmental Plan 2000</i>	Part 8
<i>Penrith Local Environmental Plan 1998 (Urban Land)</i>	Part 5
<i>Penrith Local Environmental Plan No 201 (Rural Lands)</i>	Part 3
<i>South Sydney Local Environmental Plan 1998</i>	Part 4, Division 4
<i>South Sydney Local Environmental Plan No 114 (Southern Industrial and Rosebery/Zetland Planning Districts)</i>	Part 3
<i>Sutherland Shire Local Environmental Plan 2006</i>	Part 3, Division 3
<i>Sydney Local Environmental Plan 2005</i>	Chapter 1, Part 3
<i>Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011</i>	Part 5
<i>Sydney Local Environmental Plan (Green Square Town Centre) 2013</i>	Part 5
<i>Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013</i>	Part 5
<i>Warringah Local Environmental Plan 2000</i>	Part 2
<i>Waverley and Woollahra Joint Local Environmental Plan 1991—Bondi Junction Commercial Centre</i>	Part 3

**[4] Canal estate development—non-standard local environmental plans**

Insert the following in the local environmental plans specified in Column 1 of the following table at the end of the matter specified opposite in Column 2, with appropriate clause numbering—

**Canal estate development prohibited**

- (1) Canal estate development is prohibited on land to which this Plan applies.
- (2) In this clause—  
*canal estate development* has the same meaning as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

<b>Column 1</b>	<b>Column 2</b>
<i>Ballina Local Environmental Plan 1987</i>	Part 3
<i>Bega Valley Local Environmental Plan 2002</i>	Part 11
<i>Blue Mountains Local Environmental Plan 1991</i>	Matter headed “ <b>Special provisions</b> ”
<i>Blue Mountains Local Environmental Plan 2005</i>	Part 2, Division 3
<i>Blue Mountains Local Environmental Plan No 4</i>	Part 3, Division 6
<i>Byron Local Environmental Plan 1988</i>	Part 3, Division 4
<i>Deniliquin Local Environmental Plan 1997</i>	Part 3
<i>Forbes Local Environmental Plan 1986</i>	Part 3
<i>Hurstville Local Environmental Plan 1994</i>	Part 3
<i>Lake Macquarie Local Environmental Plan 2004</i>	Part 4
<i>Leichhardt Local Environmental Plan 2000</i>	Part 8
<i>Lismore Local Environmental Plan 2000</i>	Part 2
<i>Penrith Local Environmental Plan 1998 (Urban Land)</i>	Part 5
<i>Penrith Local Environmental Plan No 201 (Rural Lands)</i>	Part 3
<i>Queanbeyan Local Environmental Plan 1991</i>	Part 3, Division 4
<i>Queanbeyan Local Environmental Plan 1998</i>	Part 13
<i>Shoalhaven Local Environmental Plan 1985</i>	Part 3, Division 8
<i>Singleton Local Environmental Plan 1996</i>	Part 10
<i>South Sydney Local Environmental Plan 1998</i>	Part 4, Division 4
<i>Sutherland Shire Local Environmental Plan 2006</i>	Part 3, Division 3
<i>Sydney Local Environmental Plan 2005</i>	Chapter 1, Part 3
<i>Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011</i>	Part 5
<i>Sydney Local Environmental Plan (Green Square Town Centre) 2013</i>	Part 5
<i>Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013</i>	Part 5
<i>Tweed Local Environmental Plan 2000</i>	Part 12

**Column 1**

**Column 2**

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*Wollongong Local Environmental Plan 1990*

Part 3

*Yarrowlumla Local Environmental Plan 2002*

Part 5

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## Schedule 3 Amendment of other environmental planning instruments

### 3.1 Balranald Local Environmental Plan 2010

#### [1] Clause 6.8

Insert after clause 6.7—

#### 6.8 Development in Willandra Lakes Region World Heritage Property

- (1) The objective of this clause is to protect, conserve and manage the Willandra Lakes Region World Heritage Property (the *World Heritage Property*) in accordance with—
  - (a) a strategic plan of management prepared in relation to the World Heritage Property, and
  - (b) international obligations applicable to the World Heritage Property.
- (2) This clause applies to land identified as the Willandra Lakes Region World Heritage Property on the World Heritage Property Map.
- (3) In deciding whether to grant development consent to development on the World Heritage Property, the consent authority must consult with the World Heritage Advisory Committee by giving written notice to the Committee that—
  - (a) describes the development, and
  - (b) asks the Committee to—
    - (i) comment on the impact of the development on the World Heritage Property, including the outstanding universal values of the World Heritage Property, and
    - (ii) specify requirements that, in the Committee's opinion, should apply to the development in relation to managing the impact.
- (4) In deciding whether to grant development consent to development on the World Heritage Property, the consent authority must consider the following—
  - (a) the objective of this clause,
  - (b) the plan of management prepared for Mungo National Park under the *National Parks and Wildlife Act 1974*, if applicable,
  - (c) a strategic plan of management,
  - (d) a relevant individual property plan,
  - (e) a response received from the World Heritage Advisory Committee within the consultation period in relation to the impact of the development on the World Heritage Property.
- (5) Development consent must not be granted to development on the World Heritage Property unless the consent authority is satisfied the development will comply with any requirements specified by the World Heritage Advisory Committee in relation to managing the impact of the development.
- (6) In this clause—

*consultation period* means—

  - (a) 60 days from the date on which the World Heritage Advisory Committee receives the notice under subclause (3), or



- (b) if the World Heritage Advisory Committee gives the consent authority written notice within 60 days after receiving the notice under subclause (3) that the Committee requires additional time to respond—120 days from the date on which the Committee receives the notice under subclause (3).

**individual property plan** means—

- (a) in relation to land that is part of the World Heritage Property—a plan for managing the land that is—
- (i) prepared by the owner of the land, and
  - (ii) approved by the Minister administering the *Crown Land Management Act 2016*, or
- (b) a plan that was an individual property plan under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 12 immediately before its repeal.

**outstanding universal values** of the World Heritage Property means the features of the World Heritage Property described in the *Operational Guidelines for the Implementation of the World Heritage Convention*, clause 77, criteria (iii) and (viii), dated 31 July 2021 and published by the UNESCO World Heritage Centre.

**Note—** Criteria (iii) and (viii) are adopted for the World Heritage Property in decision 37 COM 8E (2013) of the World Heritage Committee.

Criterion (iii) requires a property to bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared.

Criterion (viii) requires a property to be an outstanding example representing major stages of earth's history, including the record of life, significant ongoing geological processes in the development of landforms, or significant geomorphic or physiographic features.

**strategic plan of management** means—

- (a) the document entitled *Sustaining the Willandra* published by the Department of Environment, Sport and Territories in 1996, including the Willandra Lakes Region Operational Plan, or
- (b) a plan for managing the World Heritage Property that is prepared and implemented in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, section 321.

**World Heritage Advisory Committee** means the Willandra Lakes Region World Heritage Advisory Committee established under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, section 511.

## [2] Schedule 5 Environmental heritage

Omit “International/State” in the matter relating to Item number I8.

Insert instead “World, National and State”.

## [3] Dictionary

Insert in alphabetical order—

**World Heritage Property Map** means the Balranald Local Environmental Plan 2010 Willandra Lakes Region World Heritage Property Map.

## 3.2 Eurobodalla Local Environmental Plan 2012

### [1] Clause 1.9 Application of SEPPs

Omit clause 1.9(3).

**[2] Clause 1.9, note**

Insert at the end of the clause—

**Note—** The *Standard Instrument (Local Environmental Plans) Order 2006* preserves the effect of clause 1.9(3), as in force before its repeal by *State Environmental Planning Policy Amendment (Water Catchments) 2022*.

**3.3 Hawkesbury Local Environmental Plan 2012**

**[1] Clause 4.1C Exceptions to minimum subdivision lot size for rural and large lot residential zones**

Omit clause 4.1C(5), definition of *regionally significant wetland*.

Insert instead—

*regionally significant wetland* means land identified as “coastal wetlands” on the Coastal Wetlands and Littoral Rainforests Area Map, within the meaning of *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 2.

**[2] Clause 5.23**

Insert after clause 5.22—

**5.23 Public bushland [optional]**

- (1) The objective of this clause is to protect and ensure the ecological viability of bushland, including rehabilitated areas in urban areas, by—
  - (a) preserving biodiversity, habitat corridors and links between public bushland and other nearby bushland, and
  - (b) preserving bushland as a natural stabiliser of the soil surface, and
  - (c) preserving existing hydrological landforms, processes and functions, including natural drainage lines, watercourses, wetlands and foreshores, and
  - (d) preserving the recreational, educational, scientific, aesthetic, environmental, ecological and cultural values and potential of bushland, and
  - (e) mitigating disturbance caused by development.
- (2) Development that will disturb, or is reasonably likely to disturb, public bushland is permitted with development consent.
- (3) Development consent must not be granted to development that will disturb, or is reasonably likely to disturb, public bushland unless the consent authority is satisfied of the following—
  - (a) the disturbance of the bushland is essential for a purpose in the public interest,
  - (b) there is no reasonable alternative to the disturbance,
  - (c) the development minimises the amount of bushland to be disturbed,
  - (d) the development includes measures to remediate the disturbed bushland.
- (4) Despite subclause (2), development that will disturb, or is reasonably likely to disturb, public bushland is permitted without development consent if the development is for the following purposes—

- (a) the construction, operation or maintenance of pipelines to carry water, sewerage or gas or in accordance with a licence granted under the *Pipelines Act 1967*,
  - (b) the construction, operation or maintenance of electricity or telecommunication lines,
  - (c) bush fire hazard reduction,
  - (d) the construction or maintenance of classified roads,
  - (e) facilitating the recreational use of the public bushland.
- (5) Development specified in subclause (4)(e) is permitted without development consent only if it is carried out in accordance with a plan of management for the public bushland, adopted by the Council in the same way a plan of management is required to be adopted for community land under the *Local Government Act 1993*, Chapter 6, Part 2, Division 2, that includes measures for the following—
- (a) the recreational use of the land,
  - (b) bush fire hazard reduction,
  - (c) the prevention of degradation, including the alteration of drainage patterns, rubbish dumping, vehicle intrusion and infestation with weeds or non-native plants,
  - (d) the remediation of degraded public bushland.
- (6) This clause does not require development consent for clearing of native vegetation if it is clearing of a kind that is authorised under the *Local Land Services Act 2013*, section 600.
- (7) In deciding whether to grant development consent to development on land adjoining public bushland, the consent authority must consider the following—
- (a) the need to retain public bushland adjoining the site of the development,
  - (b) the likely effect of the development on public bushland, including the following—
    - (i) the erosion of soil,
    - (ii) the siltation of streams and waterways,
    - (iii) the spread of weeds and non-native plants within public bushland,
  - (c) other matters the consent authority considers relevant to the protection and preservation of public bushland.
- (8) This clause does not apply to the following land that is public bushland—
- (a) land in Zone RU1, RU2, RU3, RU4 or RU5,
  - (b) land reserved, dedicated or acquired under the *National Parks and Wildlife Act 1974*,
  - (c) land within a State forest, flora reserve or timber reserve within the meaning of the *Forestry Act 2012*,
  - (d) land to which *State Environmental Planning Policy (Precincts—Western Parkland City) 2021*, Chapter 7 applies,
  - (e) land north of the Colo River.
- (9) In this clause—  
**disturb** public bushland means—

- (a) remove vegetation from public bushland, or
- (b) cause a change in the natural ecology of public bushland that results in the destruction or degradation of the public bushland.

**non-native plant** means a plant that is not native vegetation.

**public bushland** means land—

- (a) on which there is vegetation that is—
  - (i) a remainder of the natural vegetation of the land, or
  - (ii) representative of the structure and floristics of the natural vegetation of the land, and
- (b) that is owned, managed or reserved for open space or environmental conservation by the Council or a public authority.

### [3] Schedule 3 Complying development

Omit item (2)(f) of the matter relating to Building alterations and additions (external) to industrial buildings in Zones IN1 and IN2 in Part 1.

Insert instead—

- (f) that is a Riverine Scenic Area or a Hawkesbury-Nepean conservation area sub-catchment under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6.

### [4] Schedule 5 Environmental heritage

Insert in appropriate order in Part 1—

Lower Portland	Lower Portland Ferry	West Portland Road	Local	I519
Sackville	Sackville Ferry Crossing (RTA Bridge No 418)	Sackville Road	Local	I520

## 3.4 Hunters Hill Local Environmental Plan 2012

### Clauses 6.5, 6.6 and 6.7

Omit the notes from clauses 6.5, 6.6 and 6.7. Insert instead—

**Note—** *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6 also applies to the Foreshores and Waterways Area within the meaning of the Chapter.

## 3.5 Penrith Local Environmental Plan 2010

### [1] Clause 3.3 Environmentally sensitive areas excluded

Omit clause 3.3(2), definition of *environmentally sensitive area for exempt or complying development*, paragraph (jc).

Insert instead—

- (jc) land that is, or adjoins, the Hawkesbury-Nepean River,
- (jd) land that is part of or adjoins—
  - (i) a Riverine Scenic Area under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6, or

- (ii) a Hawkesbury-Nepean conservation area sub-catchment under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6.

**[2] Clause 7.1 Earthworks**

Omit notes 1 and 2.

Insert instead—

**Note—** The *National Parks and Wildlife Act 1974*, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

**3.6 Penrith Local Environmental Plan No 255—Exempt and Complying Development**

**[1] Clause 2 Area covered by this plan**

Omit clause 2(2)(i) and (j).

Insert instead—

- (i) is or adjoins the Hawkesbury-Nepean River, or
- (j) is part of or adjoins—
  - (i) a Riverine Scenic Area under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6, or
  - (ii) a Hawkesbury-Nepean conservation area sub-catchment under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6, or
- (ja) is identified as “coastal wetlands” on the Coastal Wetlands and Littoral Rainforests Area Map, within the meaning of *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 2, or

**[2] Clause 3 Relationship to other environmental planning instruments**

Omit “Chapter 9” from clause 3(4)(d). Insert instead “Chapter 6”.

**3.7 Penrith Local Environmental Plan No 258—Consent for Dwelling Houses and Other Development**

**Clause 4 Relationship to other environmental planning instruments**

Omit “Chapter 9” from clause 4(3)(d). Insert instead “Chapter 6”.

**3.8 Shellharbour Local Environmental Plan 2000**

**[1] Clause 95**

Insert after clause 94—

**95 Canal estate development prohibited**

- (1) Canal estate development is prohibited on land to which this Plan applies.
- (2) In this clause—

*canal estate development* has the same meaning as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**[2] Schedule 1 Definitions**

Insert “, other than placement of fill material referred to in the definition of *canal estate development* under clause 95,” after “placement of fill” in the definition of *filling*.

**3.9 Shellharbour Rural Local Environmental Plan 2004**

**[1] Clause 64G**

Insert after clause 64F—

**64G Canal estate development prohibited**

(1) Canal estate development is prohibited on land to which this Plan applies.

(2) In this clause—

*canal estate development* has the same meaning as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**[2] Dictionary**

Insert “, other than placement of fill material referred to in the definition of *canal estate development* under clause 64G,” after “placement of fill” in the definition of *filling*.

**3.10 Shoalhaven Local Environmental Plan 1985**

**Clause 24A**

Omit the clause. Insert instead—

**24A Intensive plant growing development in the Sydney Drinking Water Catchment**

(1) The objective of this clause is to require development consent for development with the potential to have an adverse impact on water quality in the Sydney Drinking Water Catchment.

(2) Despite any other provision of this Plan, development for the purposes of intensive plant growing is permitted with development consent on land in the Sydney Drinking Water Catchment.

(3) In this clause—

*intensive plant growing* on land means market gardening, fungi growing, fruit growing, flower growing, viticulture or the like for commercial purposes, but does not include growing—

(a) wheat, oats, oilseed, legumes or other field crops, or

(b) any species of plant for pastures.

*Sydney Drinking Water Catchment* has the same meaning as in *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6.

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

**[1] Clause 1.5 Interpretation—general**

Insert in alphabetical order in clause 1.5(1)—

*Sydney Drinking Water Catchment* has the same meaning as in *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6.

**[2] Clauses 1.19(1)(j)(i), (4)(a) and (5)(i)(i), 2.32A(1)(d) and 2.32C(1)(d)**

Omit “to which *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 8 applies” wherever occurring.

Insert instead “in the Sydney Drinking Water Catchment”.

### **3.12 State Environmental Planning Policy (Planning Systems) 2021**

#### **Section 4.3 Planning Secretary may act as concurrence authority**

Omit section 4.3(8), definition of *relevant provision*.

Insert instead—

*relevant provision* means the following—

- (a) *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, section 6.64,
- (b) *State Environmental Planning Policy (Precincts—Central River City) 2021*, section 3.19 and Appendices 7, 9 and 11, section 6.10,
- (c) *State Environmental Planning Policy (Precincts—Western Parkland City) 2021*, section 3.19,
- (d) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 2.97, 2.99, 2.101 and 3.22.

### **3.13 State Environmental Planning Policy (Precincts—Central River City) 2021**

#### **Section 5.52**

Insert after section 5.51—

#### **5.52 Canal estate development prohibited**

- (1) Canal estate development is prohibited on land to which this Chapter applies.
- (2) In this section—

*canal estate development* has the same meaning as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

### **3.14 State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021**

#### **[1] Section 2.12 Sydney Harbour Foreshore Sites—consent authority**

Omit “(under *Sydney Regional Environmental Plan No 16—Walsh Bay*)” from Note 2.

Insert instead “under this Policy, Chapter 5,”.

#### **[2] Section 4.1 Area covered by this Chapter**

Omit “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*”.

Insert instead “*State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6”.

**[3] Section 4.57A**

Insert after section 4.57—

**4.57A Canal estate development prohibited**

- (1) Canal estate development is prohibited on land to which this Chapter applies.
- (2) In this section—  
*canal estate development* has the same meaning as in the Standard Instrument.

**[4] Section 5.10A**

Insert after section 5.10—

**5.10A Canal estate development prohibited**

- (1) Canal estate development is prohibited on land to which this Chapter applies.
- (2) In this section—  
*canal estate development* has the same meaning as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**[5] Section 7.21**

Insert after section 7.20—

**7.21 Canal estate development prohibited**

- (1) Canal estate development is prohibited on land to which this Chapter applies.
- (2) In this section—  
*canal estate development* has the same meaning as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**[6] Appendix 1 Sydney Opera House**

Insert before Part 2—

**Part 1 Buffer zone**

**1 Development in buffer zone**

- (1) This section applies to the Sydney Opera House buffer zone identified on the State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021 Sydney Opera House Buffer Zone Map (the *buffer zone*).
- (2) In deciding whether to grant consent to development in the buffer zone, the consent authority must consider the need for the development to—
  - (a) preserve the world heritage value of the Sydney Opera House, and
  - (b) preserve views and vistas between the Sydney Opera House and other public places in the buffer zone, and
  - (c) avoid diminution of the visual prominence of the Sydney Opera House when viewed from other public places in the buffer zone.
- (3) Subsection (2) does not apply to the following development—
  - (a) building work that involves only—
    - (i) the renovation, repair, rebuilding or demolition of a building, or



- (ii) internal alterations to a building, or
- (iii) external alterations to a building that are carried out below ground level,
- (b) the subdivision of land,
- (c) a use of land, other than—
  - (i) the temporary use of a public open space, and the erection of temporary structures in connection with the temporary use, for more than 50 days in a single period of 12 months, or
  - (ii) the temporary use of a private open space for more than 2 years,
- (d) the installation or erection in an open space of an artwork, time capsule, bollard, tree surround, street furniture, pathway, driveway steps or flagpole,
- (e) landscaping or tree planting.

**[7] Appendix 1, Part 2**

Insert at the beginning of Part 2—

**1A Land to which Part applies**

This Part applies to land within the Sydney Opera House Site as referred to in *State Environmental Planning Policy (Planning Systems) 2021*, Schedule 2, section 1.

**[8] Appendix 7 Sirius site**

Omit “Division 3A of Part 5 of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*” from section 7(4)(d).

Insert instead “Appendix 1, section 1”.

### **3.15 State Environmental Planning Policy (Precincts—Regional) 2021**

#### **Part 5.3 Land Use Table**

Omit the note to the Table.

Insert instead—

**Note—** State environmental planning policies, including the following, may be relevant to development on land to which this Chapter applies—

*State Environmental Planning Policy (Housing) 2021*

*State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2—relating to infrastructure facilities, including air transport, correction, education, electricity generating works and solar energy systems, health services, ports, railways, roads, waste management and water supply systems

*State Environmental Planning Policy (Resources and Energy) 2021*, Chapter 2

*State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 3

*State Environmental Planning Policy (Industry and Employment) 2021*, Chapter 3

*State Environmental Planning Policy (Primary Production) 2021*, Chapter 2

### **3.16 State Environmental Planning Policy (Precincts—Western Parkland City) 2021**

#### **Sections 7.5 and 7.5A**

Omit section 7.5. Insert instead—

## **7.5 Relationship to other planning instruments**

- (1) The following environmental planning instruments do not apply to the Western Parklands—
  - (a) *State Environmental Planning Policy (Housing) 2021*, Chapter 3, Parts 8 and 9
  - (b) *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*,
  - (c) *State Environmental Planning Policy (Industry and Employment) 2021*, Chapter 3.
- (2) If there is an inconsistency between this Chapter and any of the following provisions, the other provision prevails to the extent of the inconsistency—
  - (a) *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 4
  - (b) *State Environmental Planning Policy (Resources and Energy) 2021*, Chapters 2 and 3,
  - (c) *State Environmental Planning Policy (Precincts—Western Parkland City) 2021*, Chapter 3.
- (3) Except as otherwise provided by this section or section 7.5A, this Chapter prevails to the extent of an inconsistency between this Chapter and another provision of this Policy or another environmental planning instrument, whether made before or after the commencement of this Chapter.

## **7.5A Application of State Environmental Planning Policy (Transport and Infrastructure) 2021, Chapter 2**

- (1) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 2.73(3) and 2.74(1) do not apply to the Western Parklands.
- (2) Western Parklands is taken to be a prescribed zone for the purposes of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.3.
- (3) If there is an inconsistency between this Chapter and *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2—
  - (a) this Chapter prevails to the extent the inconsistency relates to section 7.19, and
  - (b) otherwise—*State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 prevails to the extent of the inconsistency.

## **3.17 State Environmental Planning Policy (Resilience and Hazards) 2021**

### **Sections 2.10(3) and 2.11(2)**

Omit “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*” wherever occurring.

Insert instead “*State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6”.

## **3.18 State Environmental Planning Policy (Resources and Energy) 2021**

### **[1] Section 3.15 Extractive industry prohibited in certain places**

Omit section 3.15(3).

**[2] Schedule 1 Prohibited development**

Insert at the end of the Schedule—

Extractive industries on the bank or bed, and on land within 40m measured horizontally from the top of the bank, of the following rivers—

- (a) the Macdonald River from its confluence with the Hawkesbury River and for its entire length within the City of Hawkesbury,
- (b) the Colo River from its confluence with the Hawkesbury River and for its entire length within the City of Hawkesbury.

Extractive industries on the bank or bed, and on land within 10m measured horizontally from the top of the bank, of the Hawkesbury-Nepean River downstream of the Wallacia Bridge, other than—

- (a) land identified in Schedule 3, Division 5, and
- (b) land to which *State Environmental Planning Policy (Precincts—Western Parkland City) 2021*, Chapter 5 applies.

**3.19 State Environmental Planning Policy (Transport and Infrastructure) 2021**

**[1] Section 2.15, heading**

Omit “public”.

**[2] Section 2.15(2)(g)**

Insert after section 2.15(2)(f)—

- (g) development on, or reasonably likely to have an impact on, a part of the Willandra Lakes Region World Heritage Property—the World Heritage Advisory Committee and Heritage NSW.

**[3] Section 2.15(3)**

Insert in alphabetical order—

***Willandra Lakes Region World Heritage Property*** means the land identified as the Willandra Lakes Region World Heritage Property on—

- (a) the Willandra Lakes Region World Heritage Property Map under *Balranald Local Environmental Plan 2010*, or
- (b) the Willandra Lakes Region World Heritage Property Map under *Wentworth Local Environmental Plan 2011*.

***World Heritage Advisory Committee*** means the Willandra Lakes Region World Heritage Advisory Committee established under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, section 511.

**[4] Part 2.3, Division 25A**

Omit the Division.

**[5] Section 3.18 General requirements for complying development**

Omit section 3.18(3)(h)(i). Insert instead—

- (i) in the Sydney Drinking Water Catchment under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6, or

**[6] Section 5.23A**

Insert after section 5.23—

**5.23A Canal estate development prohibited**

Canal estate development is prohibited on land to which this Chapter applies.

**3.20 Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011**

**[1] Land Use Table**

Omit “*State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 7*” from the note.

**[2] Dictionary**

Omit the definition of *canal estate development*.

**3.21 Sydney Local Environmental Plan (Green Square Town Centre) 2013**

**[1] Land Use Table**

Omit “*State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 7*” from the note.

**[2] Dictionary**

Omit the definition of *canal estate development*.

**3.22 Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013**

**[1] Land Use Table**

Omit “*State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 7*” from the note.

**[2] Dictionary**

Omit the definition of *canal estate development*.

**3.23 Upper Lachlan Local Environmental Plan 2010**

**Clause 3.2 Complying development**

Omit “to which *State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 8* applies” from clause 3.2(3)(cb).

Insert instead “in the Sydney Drinking Water Catchment under *State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6*”.

**3.24 Warringah Local Environmental Plan 2000**

**[1] Schedule 1 Exempt development**

Omit the note from the matter relating to “PUBLIC WORKS” in the Table.

**[2] Schedule 5 State policies**

Omit the matter relating to “Bushland in urban areas”.

### 3.25 Wentworth Local Environmental Plan 2011

[1] **Clause 7.11**

Insert after clause 7.10—

**7.11 Development in Willandra Lakes Region World Heritage Property**

- (1) The objective of this clause is to protect, conserve and manage the Willandra Lakes Region World Heritage Property (the *World Heritage Property*) in accordance with—
  - (a) a strategic plan of management prepared in relation to the World Heritage Property, and
  - (b) international obligations applicable to the World Heritage Property.
- (2) This clause applies to land identified as the Willandra Lakes Region World Heritage Property on the World Heritage Property Map.
- (3) In deciding whether to grant development consent to development on the World Heritage Property, the consent authority must consult with the World Heritage Advisory Committee by giving written notice to the Committee that—
  - (a) describes the development, and
  - (b) asks the Committee to—
    - (i) comment on the impact of the development on the World Heritage Property, including the outstanding universal values of the World Heritage Property, and
    - (ii) specify requirements that, in the Committee's opinion, should apply to the development in relation to managing the impact.
- (4) In deciding whether to grant development consent to development on the World Heritage Property, the consent authority must consider the following—
  - (a) the objective of this clause,
  - (b) the plan of management prepared for Mungo National Park under the *National Parks and Wildlife Act 1974*, if applicable,
  - (c) a strategic plan of management,
  - (d) a relevant individual property plan,
  - (e) a response received from the World Heritage Advisory Committee within the consultation period in relation to the impact of the development on the World Heritage Property.
- (5) Development consent must not be granted to development on the World Heritage Property unless the consent authority is satisfied the development will comply with any requirements specified by the World Heritage Advisory Committee in relation to managing the impact of the development.
- (6) In this clause—

*consultation period* means—

  - (a) 60 days from the date on which the World Heritage Advisory Committee receives the notice under subclause (3), or
  - (b) if the World Heritage Advisory Committee gives the consent authority written notice within 60 days after receiving the notice under subclause (3) that the Committee requires additional time to respond—120 days from the date on which the Committee receives the notice under subclause (3).

***individual property plan*** means—

- (a) in relation to land that is part of the World Heritage Property—a plan for managing the land that is—
  - (i) prepared by the owner of the land, and
  - (ii) approved by the Minister administering the *Crown Land Management Act 2016*, or
- (b) a plan that was an individual property plan under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 12 immediately before its repeal.

***outstanding universal values*** of the World Heritage Property means the features of the World Heritage Property described in the *Operational Guidelines for the Implementation of the World Heritage Convention*, clause 77, criteria (iii) and (viii), dated 31 July 2021 and published by the UNESCO World Heritage Centre.

**Note—** Criteria (iii) and (viii) are adopted for the World Heritage Property in decision 37 COM 8E (2013) of the World Heritage Committee.

Criterion (iii) requires a property to bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared.

Criterion (viii) requires a property to be an outstanding example representing major stages of earth's history, including the record of life, significant ongoing geological processes in the development of landforms, or significant geomorphic or physiographic features.

***strategic plan of management*** means—

- (a) the document entitled *Sustaining the Willandra* published by the Department of Environment, Sport and Territories in 1996, including the Willandra Lakes Region Operational Plan, or
- (b) a plan for managing the World Heritage Property that is prepared and implemented in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, section 321.

***World Heritage Advisory Committee*** means the Willandra Lakes Region World Heritage Advisory Committee established under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, section 511.

## [2] Dictionary

Insert in alphabetical order—

***World Heritage Property Map*** means the Wentworth Local Environmental Plan 2011 Willandra Lakes Region World Heritage Property Map.

## 3.26 Wingecarribee Local Environmental Plan 2010

### Clause 7.3 Earthworks

Omit “to which *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 8 applies” from clause 7.3(2A)(b).

Insert instead “in the Sydney Drinking Water Catchment under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6”.

### **3.27 Wollongong Local Environmental Plan 2009**

#### **[1] Land Use Table**

Omit “Sydney drinking water catchment, within the meaning of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 8” from item 1 in the matter relating to Zone C2 Environmental Conservation.

Insert instead “Sydney Drinking Water Catchment under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6”.

#### **[2] Clause 3.2 Complying development**

Omit “to which the *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 8 applies” from clause 3.2(4A)(d).

Insert instead “in the Sydney Drinking Water Catchment under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6”.