

State Environmental Planning Policy No 56—Sydney Harbour Foreshores and Tributaries (1998 EPI 486)

[1998-486]



New South Wales

Status Information

Currency of version

Historical version for 2 February 2001 to 29 November 2001 (accessed 26 November 2024 at 15:17)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

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File last modified 5 February 2001

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New South Wales

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State Environmental Planning Policy No 56—Sydney Harbour Foreshores and Tributaries (1998 EPI 486)



New South Wales

Part 1 Preliminary

1 Name of Policy

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

2 Aims of Policy

This Policy aims to co-ordinate the planning and development of land comprising the foreshores of Sydney Harbour and its tributaries:

- (a) by establishing a clear set of guiding principles for the development of all land on those parts of the foreshores to which this Policy applies, and
- (b) by requiring the preparation of master plans for strategic foreshore sites to ensure that the guiding principles for the foreshores are met, and
- (c) by establishing clear consultation procedures for the planning and development of all strategic foreshore sites, and
- (d) by declaring development on certain strategic foreshore sites to be State significant development and so providing that the Minister is to be the sole consent authority under the provisions of Part 4 of the *Environmental Planning and Assessment Act 1979* for that development, and
- (e) through possible future amendment of this Policy:
 - (i) by enabling additional foreshore land to be brought within the provisions of this Policy, and
 - (ii) by enabling additional sites to be identified as strategic foreshore sites and brought within the provisions of this Policy, or

- (iii) by enabling the permissible land uses for that land and those sites to be changed,
or
 - (iv) by enabling the Minister to be made the consent authority in relation to the
development of that land or those sites,
- or by any combination of them.

3 Definitions

(1) In this Policy:

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

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

master plan means a master plan, as in force for the time being, adopted under Part 5.

Minister means the Minister for Urban Affairs and Planning.

related structure means a structure, such as a wharf, part of which is located above mean high water mark on land edged heavy black on the map and part of which is not and which is related to a strategic foreshore site.

site of strategic significance means a site to which Schedule 2 applies.

State significant development has the meaning given by section 76A (7) of the Act.

strategic foreshore site means a site described in Schedule 1 or 2.

the Act means the [Environmental Planning and Assessment Act 1979](#).

the map means the map marked “*State Environmental Planning Policy No 56 Sydney Harbour Foreshores & Tributaries*” deposited in the Head Office of the Department of Urban Affairs and Planning comprising a sheet for foreshore land marked “*Guiding Principles—Foreshore Land*” and the sheets specified in Schedules 1 and 2, as amended by the maps marked as follows which are deposited in the Head Office of the Department of Urban Affairs and Planning:

Editorial note—

The amending maps are not necessarily listed in the order of gazettal. Information about the order of gazettal can be determined by referring to the Historical notes at the end of the Policy.

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

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

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

(2) Notes in this Policy do not form part of this Policy.

4 Land to which this Policy applies

(1) This Policy applies to the land shown edged heavy black on the map, except as provided by this clause.

(2) This Policy applies to related structures which are related to other land to which this Policy applies.

(3) This Policy does not apply to land that is reserved under the *National Parks and Wildlife Act 1974*.

5 Relationship to other environmental planning instruments

(1) In the event of an inconsistency between this Policy and another environmental planning instrument applying to land to which this Policy applies, whether made before or after this Policy, this Policy applies to the extent of the inconsistency.

(2) Nothing in another environmental planning instrument is to be construed as restricting or prohibiting or enabling a consent authority to restrict or prohibit:

(a) the carrying out of development of any description specified in Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980*, or

(b) the use of existing buildings of the Crown by the Crown, or

(c) development for the purpose of home occupations (within the meaning of the *Environmental Planning and Assessment Model Provisions 1980*) in dwelling-houses (within the meaning of those Provisions).

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

Part 2 Guiding principles (for all land to which this Policy applies)

6 Objective

(1) The objective of this Part is to provide a set of clear principles for the development of all land to which this Policy applies.

(2) These principles are to be taken into consideration and, where possible, achieved in the preparation of environmental studies, environmental planning instruments, development control plans, master plans and any other environmental planning codes or guidelines, and in the assessment and determination of development applications.

7 Guiding principles

All decisions made in the administration of the Act or an instrument under the Act relating to the planning and development of land to which this Policy applies are to take the following matters into consideration:

- (a) increasing public access to, and use of, land on the foreshore,
- (b) the fundamental importance of the need for land made available for public access, or use, on the foreshore to be in public ownership wherever possible, particularly land that is within the foreshore area as defined in the *Sydney Harbour Foreshore Authority Act 1998*,
- (b1) if public ownership of foreshore land is not possible, the use of appropriate tenure mechanisms to safeguard public access to, and public use of, that land and to ensure the rights of public authorities to determine the design of, use of, and amenities on, the land over time,
- (c) the retention and enhancement of public access links between existing foreshore open space areas,
- (d) the conservation of significant bushland and other natural features along the foreshore, where consistent with conservation principles, and their availability for public use and enjoyment,
- (e) the suitability of the site or part of the site for significant open space that will enhance the open space network existing along the harbour foreshores,
- (f) the protection of significant natural and cultural heritage values, including marine ecological values,
- (g) the protection and improvement of unique visual qualities of the Harbour, its foreshores and tributaries,
- (h) the relationship between use of the water and foreshore activities,
- (i) the conservation of items of heritage significance identified in an environmental planning instrument or subject to an order under the *Heritage Act 1977*,
- (j) the scale and character of any development, derived from an analysis of the context of the site,
- (k) the character of any development as viewed from the water and its compatibility and sympathy with the character of the surrounding foreshores,
- (l) the application of ecologically sustainable development principles,
- (m) the maintenance of a working-harbour character and functions by the retention of

key waterfront industrial sites or, at a minimum, the integration of facilities for maritime activities into development and, wherever possible, the provision of public access through these sites to the foreshore,

- (n) the feasibility and compatibility of uses and, if necessary, appropriate measures to ensure coexistence of different land uses,
- (o) increasing opportunities for water-based public transport.

Part 3 State significant development (land in Schedule 1)

8 Application of this Part

- (1) This Part applies to the land described in Schedule 1.
- (2) This Part applies to a related structure which is related to land to which this Policy applies described in Schedule 1 in the same way as it applies to the land described in Schedule 1.

Note—

The provisions of Part 2 of this Policy relating to guiding principles and of Part 5 of this Policy relating to master plans apply to the land to which Schedule 1 applies.

9 State significant development

- (1) Pursuant to section 76A (7) of the Act, development on the land described in Schedule 1 is declared to be State significant development unless:
 - (a) it is development specified in subclause (2) that is carried out on the land edged heavy black on the sheet of the map marked “*Schedule 1—Map 16—Luna Park*” (that land being referred to in this clause as **the Luna Park site**), or
 - (b) under any environmental planning instrument applying to the land, the development is complying development.
- (2) The development specified in this subclause is any of the following:
 - (a) a change in use from:
 - (i) an office to a shop, or
 - (ii) a shop to an office, or
 - (iii) an office of a particular kind to an office of another kind, or
 - (iv) a shop of a particular kind to a shop of another kind,
 - (b) the display of an advertisement, or the erection of an advertising structure, if the advertisement, or advertising structure, is not visible from outside the Luna Park

site,

- (c) the installation of a sign, other than an advertisement, that is not visible from outside the Luna Park site,
- (d) the installation of an aerial, antenna, microwave dish or satellite dish,
- (e) the installation of an awning or canopy,
- (f) the making of internal alterations (including fitouts) to an existing building,
- (g) the erection of a temporary building that is intended to stand on the Luna Park site for not more than 30 consecutive days,
- (h) the construction of outdoor seating,
- (i) the installation of outdoor bins,
- (j) the laying of pathways or vehicular access ways,
- (k) the installation of a temporary structure (within the meaning of the *Local Government Act 1993*),
- (l) the demolition of a structure referred to in this subclause (except where the demolition relates to a project that comprises, or part of which comprises, State significant development).

10 Consent authority

- (1) Pursuant to section 76A (9) of the Act, the Minister is the consent authority for development on land to which Schedule 1 applies, other than development specified in clause 9 (2) that is carried out on the land edged heavy black on the sheet of the map marked "*Schedule 1—Map 16—Luna Park*".
- (2) North Sydney Council is the consent authority for development specified in clause 9 (2) that is carried out on the land edged heavy black on the sheet of the map marked "*Schedule 1—Map 16—Luna Park*".

11 Requirement for master plans

- (1) Development consent must not be granted for development that relates to development on land to which Schedule 1 applies unless:
 - (a) there is a master plan for the land, and
 - (b) the consent authority has taken the master plan into consideration, and
 - (c) the development is consistent with the master plan,except as provided by this clause.

- (2) The Minister may waive compliance with the requirements of subclause (1) because of the nature of the development concerned, the adequacy of other planning controls that apply to the proposed development or for other such reason as the Minister considers sufficient.
- (3) A master plan does not have to be prepared for the land shown on the sheet of the map marked “*Schedule 1—Map 1—Inner Harbour*” unless the Minister directs that a master plan be prepared for that land or for such part of that land as is specified in the direction.
- (4) Without limiting subclause (2), the Minister may waive compliance with the requirements of subclause (1) if:
 - (a) the development relates to only part of a strategic foreshore site, and
 - (b) any of the grounds for waiver under subclause (2) are satisfied, and
 - (c) the Minister is satisfied that the waiver will not compromise the application of the guiding principles in Part 2.
- (5) This clause does not apply to minor development specified in Schedule 3.

12 Views of local council

- (1) Before granting consent to a development application relating to land to which Schedule 1 applies, the consent authority must seek the views of the relevant council.
- (2) A copy of the development application must be forwarded to the relevant council by the consent authority within 2 days after the date of lodgment of the application.
- (3) The consent authority must consider any views of the relevant council that are received within 30 days after giving notice of the application to the council.

Part 4 Sites of strategic significance (land in Schedule 2)

13 Application of this Part

- (1) This Part applies to the land described in Schedule 2.
- (2) This Part applies to a related structure which is related to land to which this Policy applies described in Schedule 2 in the same way as it applies to the land described in Schedule 2.

Note—

The provisions of Part 2 of this Policy relating to guiding principles and of Part 5 of this Policy relating to master plans apply to land to which Schedule 2 applies.

14 Requirement for master plans

- (1) Development consent must not be granted for development that relates to development on land to which Schedule 2 applies unless:
 - (a) there is a master plan for the land, and
 - (b) the consent authority has taken the master plan into consideration, and
 - (c) the development is consistent with the master plan.
- (2) The Minister may waive compliance with the requirements of subclause (1) because of the nature of the development concerned, the adequacy of other planning controls that apply to the proposed development or for other such reason as the Minister considers sufficient.
- (3) Without limiting subclause (2), the Minister may waive compliance with the requirements of subclause (1) if:
 - (a) the development relates to only part of a strategic foreshore site, and
 - (b) any of the grounds for waiver under subclause (2) are satisfied, and
 - (c) the Minister is satisfied that the waiver will not compromise the application of the guiding principles in Part 2.
- (4) The Minister is to notify the relevant council, in writing, of a waiver under subclause (3).
- (5) This clause does not apply to minor development specified in Schedule 3.

15 Views of the Director-General

- (1) Before granting consent to a development application relating to land to which Schedule 2 applies, the consent authority must seek the views of the Director-General.
- (2) A copy of the development application must be forwarded to the Director-General by the consent authority within 2 days after the date of lodgment of the application.
- (3) The consent authority must consider any views of the Director-General that are received within 30 days after giving notice of the development application to the Director-General.

Part 4A Subdivision of certain land

15A Land to which this Part applies

- (1) This Part applies to land to which this Policy applies that is identified as public domain or future public domain in an environmental planning instrument or in a master plan adopted under the provisions of an environmental planning instrument.

- (2) In this clause, **public domain** means land available for public use and includes streets, lanes, squares, boardwalks, roads, playgrounds, parks, open space, stairs, pedestrian walkways and the like.

15B Control of subdivision

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

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

15C Relationship with Parts 3 and 4

This Part applies in addition to Parts 3 and 4.

Part 5 Master plans (land in Schedule 1 or Schedule 2)

16 Land to which this Part applies

This Part applies to:

- (a) the land to which Schedule 1 applies, and
- (b) the land to which Schedule 2 applies.

17 Nature of master plans

A master plan is a document (consisting of written information, maps and diagrams):

- (a) that outlines provisions relating to development of land to which the master plan applies, and
- (b) that explains how the guiding principles in Part 2 and any other relevant environmental planning instrument are addressed.

18 Requirement to prepare master plan

- (1) A master plan must be prepared for the whole of a strategic foreshore site, except as provided by this clause.
- (2) The Minister may direct the relevant council, in writing, that a separate master plan is required for a specified part of a strategic foreshore site.

- (3) Such a direction must not be given unless the Minister is satisfied that the adoption of a master plan for the specified part will not compromise the application of the guiding principles in Part 2.

19 Preparation of master plans

- (1) A draft master plan may be prepared by or on behalf of the owner or lessee of the land concerned, the relevant council or the Director-General.
- (2) A draft master plan should be prepared following consultation with the consent authority and is to illustrate and explain, where appropriate, proposals for the following:
 - (a) design principles drawn from an analysis of the site and its context,
 - (b) phasing of development,
 - (c) distribution of land uses including foreshore public access and open space,
 - (d) pedestrian, cycle and road access and circulation networks,
 - (e) parking provision,
 - (f) subdivision pattern,
 - (g) infrastructure provision,
 - (h) building envelopes and built form controls,
 - (i) heritage conservation, implementing the guidelines set out in any applicable conservation policy, and protection of archaeological relics,
 - (j) remediation of the site,
 - (k) provision of public facilities,
 - (l) provision of open space, its function and landscaping,
 - (m) the impact on any adjoining land that is reserved under the *National Parks and Wildlife Act 1974*.
- (3) The requirement for consultation under subclause (2) does not apply if the draft master plan is prepared by the relevant council or the Director-General.
- (4) If a draft master plan is prepared by or on behalf of the relevant council or the Director-General, the relevant council or the Director-General is required to consult with the owner or lessee of the land concerned.

20 Consultation

- (1) A draft master plan submitted to the consent authority by or on behalf of the owner or lessee of the land concerned, the relevant council or the Director-General must be advertised in a newspaper circulating in the locality and exhibited for not less than 21 days for public comment.
- (2) A draft master plan (other than a draft master plan prepared by the Director-General) must be submitted to the Director-General for comment and the views of relevant public authorities and community organisations sought. If the consent authority is the Minister, a draft master plan must be submitted to the council for comment. Any comments made by the Director-General or the council must be taken into consideration prior to finalising the draft master plan.
- (3) The consent authority must take into account any written submissions made about the content of the draft master plan during the exhibition period.

21 Adoption of master plans

- (1) A draft master plan must be submitted to the appropriate authority for adoption.
- (2) For the purposes of this clause, the **appropriate authority** is:
 - (a) the Minister in relation to land described in Schedule 1, and
 - (b) the relevant council in relation to land described in Schedule 2.
- (3) The Director-General may recommend that a draft master plan be adopted without any variations or that it be adopted with such variations as the Director-General considers appropriate.
- (3A) If the relevant council has rejected, or has not adopted, a draft master plan in relation to land described in Schedule 2 within 3 months after the date on which the draft master plan was submitted to it for adoption, the Minister may adopt the draft master plan.
- (3B) The Minister must seek the views of the relevant council concerning the draft master plan before the Minister adopts it.
- (4) A draft master plan becomes a master plan if it is adopted by the appropriate authority or by the Minister under subclause (3A).
- (5) When a master plan is adopted, the consent authority must advertise the adoption of the master plan in a newspaper circulating in the locality.

22 Amendment of master plans

- (1) A master plan may be amended by a master plan.

- (2) An amendment to a master plan may be dealt with concurrently with a development application.

23 Availability of master plans

A copy of each master plan must be available for inspection at the office of the Department and the council.

Part 6 Transitional arrangements

24 Determination of certain development applications

- (1) A development application lodged before the date on which this Policy commenced and that had not been finally determined by the consent authority before that date is to be determined by the Minister if it relates to land described in Schedule 1.
- (2) The Minister is to determine the development application in accordance with the provisions of this Policy.
- (3) This clause does not apply to a development application lodged before the date on which this Policy commenced:
 - (a) that relates to land to which *Sydney Regional Environmental Plan No 16—Walsh Bay* applies, or
 - (b) in respect of which an appeal has been made to the Land and Environment Court before that date.
- (4) A development application to which subclause (3) applies is to be determined as if this Policy had not been made.

Schedule 1 State significant development

(Clauses 8–12)

The land edged heavy black on the sheets of the map marked as follows:

Editorial note—

The amending maps are not necessarily listed in the order of gazettal. Information about the order of gazettal can be determined by referring to the Historical notes at the end of the Policy.

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

Schedule 1—Map 2—North Head

Schedule 1—Map 3—Middle Head

Schedule 1—Map 4—HMAS Platypus

Schedule 1—Map 5—Woolwich Defence Land

Schedule 1—Map 6—ADI Site, Ryde

Schedule 1—Map 7—Naval Stores Site, Ermington

Schedule 1—Map 8—Cockatoo Island

Schedule 1—Map 9—Spectacle Island

Schedule 1—Map 10—Snapper Island

Schedule 1—Map 11—HMAS Watson, South Head

Schedule 1—Map 12—HMAS Waterhen

Schedule 1—Map 13—Taronga Zoological Gardens

Schedule 1—Map 14—Homebush Bay West Site

Schedule 1—Map 16—Luna Park

together with any related structures located on, or partly on, the land.

Schedule 2 Sites of strategic significance

(Clauses 13-15)

Note—

If circumstances arise that render it necessary or expedient to do so, this Policy could be amended to transfer land identified in this Schedule to Schedule 1 with the result that development on the land would become State significant development for which the Minister would be the consent authority.

The land edged heavy black on the sheets of the map marked as follows:

Editorial note—

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Schedule 2—Map 1—Manly Wharf

Schedule 2—Map 2—St. Patrick's Estate, North Head Peninsula

Schedule 2—Map 4—SRA Land, Lavender Bay

Schedule 2—Map 5—Gladesville Hospital Site

Schedule 2—Map 6—Concord General Repatriation Hospital

Schedule 2—Map 7—Rivendell Adolescent Unit

Schedule 2—Map 8—The Dame Eadith Walker Hospital

Schedule 2—Map 9—Strickland House, Vaucluse

Schedule 2—Map 10—Coal Loader Site, Balls Head

Schedule 2—Map 11—BP Site, Berrys Bay

Schedule 2—Map 12—Camerons Cove

Schedule 2—Map 13—University of Western Sydney, Rydalmere

Schedule 2—Map 14—Sydney Water Site, Camellia

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

Schedule 2—Map 16—Rhodes Peninsula, Homebush Bay East

Schedule 2—Map 17—Leeds Street, Rhodes

Schedule 2—Map 18—Shepherds Bay, Meadowbank

Schedule 2—Map 19—AGL Site, Mortlake

Schedule 2—Map 20—Wiremill Site, Chiswick

Schedule 2—Map 21—Rozelle Hospital

Schedule 2—Map 22—Balmain Power Station

Schedule 2—Map 23—Caltex Site, Ballast Point

Schedule 2—Map 24—Fletcher Site, Blackwattle Bay

together with any related structures located on, or partly on, the land.

Schedule 3 Minor development

(Clauses 11 and 14)

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

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

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