

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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New South Wales

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New South Wales

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Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005



New South Wales

Part 1 Preliminary

1 Name of plan

This plan is *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

2 Aims of plan

- (1) This plan has the following aims with respect to the Sydney Harbour Catchment:
 - (a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained:
 - (i) as an outstanding natural asset, and
 - (ii) as a public asset of national and heritage significance, for existing and future generations,
 - (b) to ensure a healthy, sustainable environment on land and water,
 - (c) to achieve a high quality and ecologically sustainable urban environment,
 - (d) to ensure a prosperous working harbour and an effective transport corridor,
 - (e) to encourage a culturally rich and vibrant place for people,
 - (f) to ensure accessibility to and along Sydney Harbour and its foreshores,
 - (g) to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity,
 - (h) to provide a consolidated, simplified and updated legislative framework for future planning.
- (2) For the purpose of enabling these aims to be achieved in relation to the Foreshores and Waterways Area, this plan adopts the following principles:

- (a) Sydney Harbour is to be recognised as a public resource, owned by the public, to be protected for the public good,
- (b) the public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores,
- (c) protection of the natural assets of Sydney Harbour has precedence over all other interests.

3 Land to which plan applies

- (1) This plan applies to land within the Sydney Harbour Catchment, as shown edged heavy black on the Sydney Harbour Catchment Map, being part of the Sydney Region declared by order published in Gazette No 38 of 7 April 1989 at page 1841.
- (2) Within the Sydney Harbour Catchment, particular provisions of this plan apply to:
 - (a) the Foreshores and Waterways Area, and
 - (b) various strategic foreshore sites, as shown on the Strategic Foreshore Sites Map, and
 - (c) various heritage items, as shown on the Heritage Map, and
 - (d) various wetlands protection areas, as shown on the Wetlands Protection Area Map.

4 Interpretation

- (1) Words and expressions used in this plan that are defined in the dictionary at the end of this plan have the meanings set out in that dictionary.
- (2) Notes included in the text of this plan do not form part of this plan.

5 Consent authority

- (1) The consent authority for land-based development and land/water interface development is the council of the local government area in which, or nearest to which, the land on which the development is proposed to be carried out, except as provided by subclauses (2) and (3).
- (2) The consent authority for land-based development and land/water interface development is the Minister if:
 - (a) the land on which the development is proposed to be carried out is within a local government area, and
 - (b) another environmental planning instrument specifies the Minister as the consent authority for the same kind of development if it were to be carried out on that land.

- (3) The consent authority for land-based development and land/water interface development is the Minister if:
 - (a) the land on which the development is proposed to be carried out is not within a local government area, and
 - (b) another environmental planning instrument specifies the Minister as the consent authority for the same kind of development if it were to be carried out on the nearest land that is within a local government area.
- (4) Except to the extent to which some other environmental planning instrument provides, the consent authority for water-based development is the Minister administering the *Ports Corporatisation and Waterways Management Act 1995*.

6 Maps

- (1) This plan incorporates each of the maps referred to in Schedule 1.
- (2) For the purposes of section 26 (2) of the Act, the Critical Habitat Area Map referred to in Schedule 1 identifies land that is declared to be critical habitat under Part 3 of the *Threatened Species Conservation Act 1995*.
- (3) In Schedule 1, a reference to a map is a reference to a map deposited in the head office of the Department.

7 Relationship with other environmental planning instruments

- (1) Subject to this clause, this plan supplements, and does not derogate from, any other environmental planning instrument applying to land to which this plan applies.
- (2) In the event of an inconsistency between this plan and any other environmental planning instrument, whether made before or after this plan, this plan applies to the extent of the inconsistency.
- (3) Clause 7 (3) of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* does not apply to any building that has frontage to a waterway.
- (4) Clause 8 (1) of *State Environmental Planning Policy No 55—Remediation of Land* does not derogate from or affect the provisions of this plan concerning master plans.

8 Repeal of certain environmental planning instruments

The following environmental planning instruments are repealed:

- (a) *Sydney Regional Environmental Plan No 22—Parramatta River*,
- (b) *Sydney Regional Environmental Plan No 23—Sydney and Middle Harbours*.

9 Amendment of certain environmental planning instruments

Each environmental planning instrument referred to in Schedule 5 is amended as set out in that Schedule.

10 Public utilities

Nothing in this plan is to be construed as restricting or prohibiting or enabling the consent authority to restrict or prohibit the carrying out of development of any description specified in Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980* on land within the Foreshores and Waterways Area.

11 Transitional provision

- (1) Clause 12 (2) (a) does not apply to:
 - (a) the preparation of any regional environmental plan that had been publicly exhibited under section 47 of the Act before the commencement of this plan, or
 - (b) the preparation of any local environmental plan that had been publicly exhibited under section 66 of the Act before the commencement of this plan, or
 - (c) the preparation of any development control plan that had been publicly exhibited under the regulations before the commencement of this plan.
- (2) Any development application lodged before the commencement of this plan, but not finally determined before its commencement, is to be determined as if this plan had been exhibited pursuant to section 47 of the Act but had not been made.
- (3) Subclause (2) does not apply to a development application in respect of which the applicant has notified the consent authority in writing that the application should be determined in accordance with this plan.
- (4) Any master plan that had been exhibited or adopted before the commencement of this plan for the purposes of *State Environmental Planning Policy No 56—Sydney Harbour Foreshores and Tributaries* is taken to have been exhibited or adopted, as the case requires, for the purposes of this plan.
- (5) This plan does not apply:
 - (a) to an activity within the meaning of Part 5 of the Act in respect of which an application for approval made to a determining authority within the meaning of that Part has been made, but not finally determined, immediately before the commencement of this plan, or
 - (b) to an activity within the meaning of Part 5 of the Act which was approved by a determining authority within the meaning of that Part before the commencement of this plan and which commences pursuant to that approval not later than 3 years

after the commencement of this plan.

Part 2 Planning principles

12 Objective

- (1) The objective of this Part is to provide a set of clear planning principles for land within the Sydney Harbour Catchment.
- (2) These principles are to be considered and, where possible, achieved:
 - (a) in the preparation of environmental planning instruments and development control plans under Part 3 of the Act, and
 - (b) in the preparation of environmental studies and master plans for the purposes of the Act.

13 Sydney Harbour Catchment

The planning principles for land within the Sydney Harbour Catchment are as follows:

- (a) development is to protect and, where practicable, improve the hydrological, ecological and geomorphological processes on which the health of the catchment depends,
- (b) the natural assets of the catchment are to be maintained and, where feasible, restored for their scenic and cultural values and their biodiversity and geodiversity,
- (c) decisions with respect to the development of land are to take account of the cumulative environmental impact of development within the catchment,
- (d) action is to be taken to achieve 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 October 1999 by the Environment Protection Authority), such action to be consistent with the guidelines set out in *Australian Water Quality Guidelines for Fresh and Marine Waters* (published in November 2000 by the Australian and New Zealand Environment and Conservation Council),
- (e) development in the Sydney Harbour Catchment is to protect the functioning of natural drainage systems on floodplains and comply with the guidelines set out in the document titled *Floodplain Development Manual 2005* (published in April 2005 by the Department),
- (f) development that is visible from the waterways or foreshores is to maintain, protect and enhance the unique visual qualities of Sydney Harbour,
- (g) the number of publicly accessible vantage points for viewing Sydney Harbour should be increased,

- (h) development is to improve the water quality of urban run-off, reduce the quantity and frequency of urban run-off, prevent the risk of increased flooding and conserve water,
- (i) action is to be taken to achieve the objectives and targets set out in the *Sydney Harbour Catchment Blueprint*, as published in February 2003 by the then Department of Land and Water Conservation,
- (j) development is to protect and, if practicable, rehabilitate watercourses, wetlands, riparian corridors, remnant native vegetation and ecological connectivity within the catchment,
- (k) development is to protect and, if practicable, rehabilitate land from current and future urban salinity processes, and prevent or restore land degradation and reduced water quality resulting from urban salinity,
- (l) development is to avoid or minimise disturbance of acid sulfate soils in accordance with the *Acid Sulfate Soil Manual*, as published in 1988 by the Acid Sulfate Soils Management Advisory Committee.

14 Foreshores and Waterways Area

The planning principles for land within the Foreshores and Waterways Area are as follows:

- (a) development should protect, maintain and enhance the natural assets and unique environmental qualities of Sydney Harbour and its islands and foreshores,
- (b) public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,
- (c) access to and from the waterways should be increased, maintained and improved for public recreational purposes (such as swimming, fishing and boating), while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,
- (d) development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores,
- (e) adequate provision should be made for the retention of foreshore land to meet existing and future demand for working harbour uses,
- (f) public access along foreshore land should be provided on land used for industrial or commercial maritime purposes where such access does not interfere with the use of the land for those purposes,
- (g) the use of foreshore land adjacent to land used for industrial or commercial maritime purposes should be compatible with those purposes,

- (h) water-based public transport (such as ferries) should be encouraged to link with land-based public transport (such as buses and trains) at appropriate public spaces along the waterfront,
- (i) the provision and use of public boating facilities along the waterfront should be encouraged.

15 Heritage conservation

The planning principles for heritage conservation are as follows:

- (a) Sydney Harbour and its islands and foreshores should be recognised and protected as places of exceptional heritage significance,
- (b) the heritage significance of particular heritage items in and around Sydney Harbour should be recognised and conserved,
- (c) an appreciation of the role of Sydney Harbour in the history of Aboriginal and European settlement should be encouraged,
- (d) the natural, scenic, environmental and cultural qualities of the Foreshores and Waterways Area should be protected,
- (e) significant fabric, settings, relics and views associated with the heritage significance of heritage items should be conserved,
- (f) archaeological sites and places of Aboriginal heritage significance should be conserved.

Part 3 Foreshores and Waterways Area

Division 1 Development control

16 Zones indicated on Zoning Map

- (1) For the purposes of this plan, land is within one of the following zones, as shown on the Zoning Map:

Zone No W1—Maritime Waters

Zone No W2—Environment Protection

Zone No W3—Naval Waters

Zone No W4—Aviation

Zone No W5—Water Recreation

Zone No W6—Scenic Waters: Active Use

Zone No W7—Scenic Waters: Casual Use

Zone No W8—Scenic Waters: Passive Use

Zone No 8 (a)—National Parks

- (2) A zone boundary that is shown on the Zoning Map as following the water's edge is taken to follow the mean high water mark.
- (3) Land within Zone No W6, W7 or W8 comprises the waters between the mean high water mark and a line running parallel to, and 30 metres to the seaward of, the mean high water mark.
- (4) This clause does not affect the zoning under any other environmental planning instrument of any land within the Foreshores and Waterways Area that is not included in a zone pursuant to this clause.

17 Zoning objectives

- (1) The objectives of a zone are set out in the Table to this clause.
- (2) Except as otherwise provided by this plan, the consent authority must not grant development consent to any development unless satisfied that it is consistent with the aims of this plan and the objectives of the zone in which it is proposed to be carried out.

Table

Zone No W1 Maritime Waters

The objectives of this zone are as follows:

- (a) to give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations generally,
- (b) to allow development only where it is demonstrated that it is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations,
- (c) to promote equitable use of the waterway, including use by passive recreation craft.

Zone No W2 Environment Protection

The objectives of this zone are as follows:

- (a) to protect the natural and cultural values of waters in this zone,
- (b) to prevent damage or the possibility of longer term detrimental impacts to the natural and cultural values of waters in this zone and adjoining foreshores,

- (c) to give preference to enhancing and rehabilitating the natural and cultural values of waters in this zone and adjoining foreshores,
- (d) to provide for the long-term management of the natural and cultural values of waters in this zone and adjoining foreshores.

Zone No W3 Naval Waters

The objectives of this zone are as follows:

- (a) to ensure effective implementation of the *Control of Naval Waters Act 1918* of the Commonwealth,
- (b) to restrict development incompatible with naval interests,
- (c) to allow development only where it can be demonstrated that naval interests will not be jeopardised.

Zone No W4 Aviation

The objectives of this zone are as follows:

- (a) to give preference to and protect waters required for marine aviation activities,
- (b) to ensure that marine aviation activities safely coexist with other activities and facilities,
- (c) to allow development only where it is demonstrated that it is compatible with and will not adversely affect marine aviation activities.

Zone No W5 Water Recreation

The objectives of this zone are as follows:

- (a) to give preference to and increase public water-dependent development so that people can enjoy and freely access the waters of Sydney Harbour and its tributaries,
- (b) to allow development only where it is demonstrated that the public use of waters in this zone is enhanced and will not be compromised now or in the future,
- (c) to minimise the number, scale and extent of artificial structures consistent with their function,
- (d) to allow commercial water-dependent development, but only where it is demonstrated that it meets a justified demand, provides benefits to the general and boating public and results in a visual outcome that harmonises with the planned character of the locality,
- (e) to minimise congestion of and conflict between people using waters in this zone and the foreshore,

- (f) to protect and preserve beach environments and ensure they are free from artificial structures,
- (g) to ensure that the scale and size of development are appropriate to the locality, and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone or from areas of public access.

Zone No W6 Scenic Waters: Active Use

The objectives of this zone are as follows:

- (a) to allow a range of public and private water-dependent development close to shore only where it can be demonstrated that such development minimises alienation of waters in this zone from public use and is not constrained by shallow water depth, navigational conflicts or severe wave action,
- (b) to minimise the number and extent of structures over waters in this zone through mechanisms such as the sharing of structures between adjoining waterfront property owners,
- (c) to ensure remnant natural features, aquatic habitat (including wetlands) and public access along the intertidal zone are not damaged or impaired in any way by development,
- (d) to minimise any adverse effect on views to and from waters in this zone and on the scenic values of the locality as a result of the size of vessels capable of being accommodated within the development.

Zone No W7 Scenic Waters: Casual Use

The objectives of this zone are as follows:

- (a) to allow certain water-dependent development close to shore to meet casual boating needs and other water access needs,
- (b) to allow such development only where it can be demonstrated that it achieves a predominantly open and unobstructed waterway and does not dominate the landscape setting,
- (c) to restrict development for permanent boat storage in locations that are unsuitable due to the adverse visual impact of such development or to physical constraints such as shallow water depth, severe wave action or unsafe navigation,
- (d) to ensure that the scale and size of development are appropriate to the location and protect and improve the natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone and areas of public access,

- (e) to maintain and enhance views to and from waters in this zone,
- (f) to minimise the number and extent of structures over waters in this zone through mechanisms such as the sharing of structures between adjoining waterfront property owners,
- (g) to ensure remnant natural features, aquatic habitat (including wetlands) and public access along the intertidal zone are not damaged or impaired in any way by development.

Zone No W8 Scenic Waters: Passive Use

The objectives of this zone are as follows:

- (a) to give preference to unimpeded public access along the intertidal zone, to the visual continuity and significance of the landform and to the ecological value of waters and foreshores,
- (b) to allow low-lying private water-dependent development close to shore only where it can be demonstrated that the preferences referred to in paragraph (a) are not damaged or impaired in any way, that any proposed structure conforms closely to the shore, that development maximises open and unobstructed waterways and maintains and enhances views to and from waters in this zone,
- (c) to restrict development for permanent boat storage and private landing facilities in unsuitable locations,
- (d) to allow water-dependent development only where it can be demonstrated that it meets a demonstrated demand and harmonises with the planned character of the locality,
- (e) to ensure that the scale and size of development are appropriate to the locality and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone or areas of public access.

Zone No 8 (a) National Parks

The objectives of this zone are as follows:

- (a) to identify those islands in Sydney Harbour that are reserved under the *National Parks and Wildlife Act 1974*,
- (b) to permit the use of those islands for any purpose authorised in respect of them pursuant to the *National Parks and Wildlife Act 1974*,
- (c) to facilitate public access to Clark Island, Fort Denison, Goat Island, Rodd Island and Shark Island,

- (d) to facilitate development on Clark Island, Fort Denison, Goat Island, Rodd Island and Shark Island in a manner that is compatible with the plan of management prepared under the *National Parks and Wildlife Act 1974* in respect of Sydney Harbour National Park.

18 Development control in the waterways

- (1) Except as otherwise provided by this plan, in relation to land within a zone to which a column of the Table to this clause applies:
- the development (if any) that may be carried out without development consent is indicated by the letter “P”, and
 - the development (if any) that may be carried out only with development consent is indicated by the letter “Y”, and
 - the development (if any) that is prohibited is indicated by the letter “N”.
- (2) Despite subclause (1), development not referred to in the Table to this clause may be carried out with development consent, but only if the consent authority is satisfied that the development:
- is not inconsistent with the aims of this plan or the objectives of the zone in which it is proposed to be carried out, and
 - is not inconsistent with any other environmental planning instrument that applies to the land, and
 - will not otherwise have any adverse impacts.

Table

	W1	W2	W3	W4	W5	W6	W7	W8
Advertisements	N	N	N	N	N	N	N	N
Advertising structures	N	N	N	N	N	N	N	N
Aids to navigation	P	P	P	P	P	P	P	P
Aviation facilities	Y	N	Y	Y	N	N	N	N
Boat launching ramps (Public)	Y	Y	Y	Y	Y	Y	Y	Y
Boat lifts (other than boat lifts for storage of vessels above water)	Y	N	Y	Y	Y	Y	Y	Y
Boat lifts for the storage of vessels above water	N	N	N	N	N	N	N	N

Boat repair facilities	Y	N	Y	Y	Y	Y	Y	Y
Boat sheds (private)	N	N	N	N	N	Y	N	N
Charter and tourism facilities	Y	N	Y	Y	Y	Y	N	N
Commercial marinas	Y	N	N	Y	Y	Y	N	N
Commercial port facilities	Y	N	Y	Y	N	N	N	N
Community facilities	Y	Y	Y	Y	Y	Y	Y	Y
Demolition (other than demolition of a heritage Item)	P	P	P	P	P	P	P	P
Dredging	Y	Y	Y	Y	Y	Y	Y	Y
Flora and fauna enclosures	Y	Y	P	P	P	P	P	P
General restoration works	P	P	P	P	P	P	P	P
Houseboats	N	N	N	N	N	N	N	N
Intertidal dredging	N	N	N	N	N	N	N	N
Maintenance dredging	P	Y	P	P	P	P	P	P
Mooring pens	N	N	N	N	N	Y	N	N
Naval activities	P	P	P	P	P	Y	Y	Y
Private landing facilities	N	N	N	N	N	Y	Y	N
Private landing steps	Y	Y	Y	Y	Y	Y	Y	Y
Private marinas	N	N	N	N	N	Y	N	N
Public boardwalks	Y	Y	Y	Y	Y	Y	Y	Y
Public water recreational facilities	Y	Y	Y	Y	Y	Y	Y	Y
Public water transport facilities	Y	Y	Y	Y	Y	Y	Y	Y
Reclamation works	N	N	N	N	N	N	N	N
Recreational or club facilities	Y	Y	Y	Y	Y	Y	Y	Y
Residential development	N	N	N	N	N	N	N	N

Single mooring (other than associated with a commercial marina or a boating industry facility)	P	P	P	P	P	P	P	P
Skids	Y	N	N	N	Y	Y	Y	Y
Slipways	N	N	N	N	N	Y	Y	Y
Swimming enclosures (private)	N	N	Y	Y	N	Y	Y	N
Swimming pools	N	N	N	N	N	N	N	N
Telecommunications facilities	Y	Y	Y	Y	Y	Y	Y	Y
Tourist facilities	N	N	N	N	N	N	N	N
Uses and activities prohibited under the Control of Naval Waters Act 1918 of the Commonwealth	n/a	n/a	N	n/a	n/a	n/a	n/a	n/a
Water-based restaurants and entertainment facilities	N	N	N	N	N	N	N	N
Waterfront access stairs	N	N	N	N	N	N	N	N

19 Development control within national parks

Except as otherwise provided by this plan, in relation to land within Zone No 8 (a):

- (a) the following kinds of development may be carried out without development consent:
- (i) development for the purposes of aids to navigation,
 - (ii) development for purposes for which development is authorised to be carried out in a national park under the [National Parks and Wildlife Act 1974](#),
- (b) development for any other purpose is prohibited.

Division 2 Matters for consideration

20 General

The matters referred to in this Division (together with any other relevant matters):

- (a) are to be taken into consideration by consent authorities before granting consent to development under Part 4 of the Act, and

- (b) are to be taken into consideration by public authorities and others before they carry out activities to which Part 5 of the Act applies.

21 Biodiversity, ecology and environment protection

The matters to be taken into consideration in relation to biodiversity, ecology and environment protection are as follows:

- (a) development should have a neutral or beneficial effect on the quality of water entering the waterways,
- (b) development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),
- (c) development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),
- (d) development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access,
- (e) development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation,
- (f) development should retain, rehabilitate and restore riparian land,
- (g) development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetative buffer to protect the wetlands,
- (h) the cumulative environmental impact of development,
- (i) whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance.

22 Public access to, and use of, foreshores and waterways

The matters to be taken into consideration in relation to public access to, and use of, the foreshores and waterways are as follows:

- (a) development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation,
- (b) development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boating), without adversely

impacting on watercourses, wetlands, riparian lands or remnant vegetation,

- (c) if foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land,
- (d) the undesirability of boardwalks as a means of access across or along land below the mean high water mark if adequate alternative public access can otherwise be provided,
- (e) the need to minimise disturbance of contaminated sediments.

23 Maintenance of a working harbour

The matters to be taken into consideration in relation to the maintenance of a working harbour are as follows:

- (a) foreshore sites should be retained so as to preserve the character and functions of a working harbour, in relation to both current and future demand,
- (b) consideration should be given to integrating facilities for maritime activities in any development,
- (c) in the case of development on land that adjoins land used for industrial and commercial maritime purposes, development should be compatible with the use of the adjoining land for those purposes,
- (d) in the case of development for industrial and commercial maritime purposes, development should provide and maintain public access to and along the foreshore where such access does not interfere with the use of the land for those purposes.

24 Interrelationship of waterway and foreshore uses

The matters to be taken into consideration in relation to the interrelationship of waterway and foreshore uses are as follows:

- (a) development should promote equitable use of the waterway, including use by passive recreation craft,
- (b) development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses,
- (c) development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore,
- (d) water-dependent land uses should have priority over other uses,
- (e) development should avoid conflict between the various uses in the waterways and along the foreshores.

25 Foreshore and waterways scenic quality

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways are as follows:

- (a) the scale, form, design and siting of any building should be based on an analysis of:
 - (i) the land on which it is to be erected, and
 - (ii) the adjoining land, and
 - (iii) the likely future character of the locality,
- (b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries,
- (c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.

26 Maintenance, protection and enhancement of views

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows:

- (a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,
- (b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items,
- (c) the cumulative impact of development on views should be minimised.

27 Boat storage facilities

The matters to be taken into consideration in relation to boating facilities are as follows:

- (a) development should increase the number of public boat storage facilities and encourage the use of such facilities,
- (b) development should avoid the proliferation of boat sheds and other related buildings and structures below the mean high water mark,
- (c) development should provide for the shared use of private boat storage facilities,
- (d) development should avoid the proliferation of private boat storage facilities in and over the waterways by ensuring that all such facilities satisfy a demonstrated demand,
- (e) boat storage facilities should be as visually unobtrusive as possible,
- (f) in the case of permanent boat storage, the safety and utility of the development

should not be adversely affected by the wave environment, and the development should avoid adverse impacts on safe navigation and single moorings.

Division 3 Foreshores and Waterways Planning and Development Advisory Committee

28 Foreshores and Waterways Planning and Development Advisory Committee

- (1) There is constituted by this clause the Foreshores and Waterways Planning and Development Advisory Committee the functions of which are as follows:
 - (a) to advise a consent authority on matters relevant to any decision required to be made by the consent authority under this plan or the Act,
 - (b) to advise a public authority or person carrying out certain development that does not require development consent on relevant matters before such development is carried out,
 - (c) to advise the Director-General of the Department of Environment and Conservation, at his or her request, on any matter relating to the preparation of a plan of management for land that is reserved under the *National Parks and Wildlife Act 1974*,
 - (d) to advise the Director-General of the Department of Primary Industries on any matter relating to the preparation of a plan of management for any land whose development may have an impact on an aquatic reserve within the meaning of the *Fisheries Management Act 1994*,
 - (e) to exercise any other functions conferred on it by this plan or any other environmental planning instrument.
- (2) The Advisory Committee is to consist of 3 members appointed by the Director-General.
- (3) Of the members of the Advisory Committee:
 - (a) one is to be an officer of the Maritime Authority of NSW nominated by the Authority, and
 - (b) one is to be an officer of the Department selected by the Director-General, and
 - (c) one is to be:
 - (i) in respect of a function exercised by the Advisory Committee in relation to a matter for which the council of a local government area is the consent authority, a person nominated by the council, or
 - (ii) in respect of a function exercised by the Advisory Committee in relation to a

matter for which the Minister is the consent authority, a person nominated by the Minister.

- (4) If a function of the Advisory Committee is not being exercised in respect of land within a local government area, but is being exercised in respect of any land that is reserved under the *National Parks and Wildlife Act 1974*, the Advisory Committee is to include an officer of the Department of Environment and Conservation selected by the Director-General of that Department instead of the member referred to in subclause (3) (c).
- (5) The Director-General is to appoint one of the members of the Committee to be the Chairperson of the Advisory Committee.
- (6) The procedures for the calling of meetings of the Advisory Committee and for the conduct of business at those meetings are, subject to this plan and to any direction of the Director-General, to be as determined by the Advisory Committee.

29 Consultation required for certain development applications

- (1) The consent authority must not grant development consent to the carrying out in the Foreshores and Waterways Area of development listed in Schedule 2, unless:
 - (a) it has referred the development application to the Advisory Committee, and
 - (b) it has taken into consideration any submission received from the Advisory Committee within 30 days after the date on which the application was forwarded to the Committee.
- (2) In the case of an application to carry out development for more than one purpose, of which one or more is listed in Schedule 2 and one or more is not, the consent authority is only required to refer to the Advisory Committee that part of the application relating to development for a purpose so listed.
- (3) This clause does not apply to development that consists solely of alterations or additions to existing buildings or works and that, in the opinion of the consent authority, is minor and does not, to any significant extent, increase the scale, size or intensity of use of those buildings or works.

30 Consultation available for other matters

- (1) The person or body by whom a draft local environmental plan, draft development control plan or draft master plan for land having frontage to a waterway is prepared must refer a copy of the plan to the Advisory Committee before the plan is publicly exhibited.
- (2) The Director-General should refer a copy of any draft development control plan for land to which this plan applies prepared by the Director-General to the Advisory Committee before it is adopted.

- (3) If the Department or any other government agency prepares any guidelines for development control affecting land having frontage to the waterway (whether or not the guidelines are in the form of a plan of management), the Director-General must, and the government agency should, refer a copy of the draft guidelines to the Advisory Committee before they are adopted.
- (4) The Director-General must, and a council or government agency concerned should, have regard to any submission received from the Advisory Committee within 30 days after the date on which the draft local environmental plan, draft development control plan, draft master plan or draft guidelines were forwarded to the Advisory Committee.

31 Referral of development proposals not requiring development consent

- (1) This clause applies to the following development:
 - (a) development listed in Schedule 2, and
 - (b) development that requires the provision of services (including water, sewerage or stormwater systems).
- (2) Before carrying out any development to which this clause applies which does not require development consent, the person, whether or not a public authority, carrying out the development must:
 - (a) give notice of the proposed development:
 - (i) in the case of development listed in Schedule 2, to the Advisory Committee, or
 - (ii) in the case of development that requires the provision of services, to the public authority responsible for providing the service concerned, and
 - (b) consider any matters concerning the development raised by those bodies which have been notified to the person not later than 30 days after the giving of such notice.

Division 4 Special provisions

32 Subdivision of existing and future public domain identified on master plans

- (1) This clause applies to the subdivision of land:
 - (a) that is in (or forms part of land in) the Foreshores and Waterways Area, and
 - (b) that has frontage to (or forms part of land having frontage to) Sydney Harbour, and
 - (c) that is (or forms part of land that is) identified as existing or future public domain by a master plan adopted under this or any other environmental planning instrument.

- (2) Development consent to the subdivision of land is not to be granted unless the consent authority is satisfied that public access to and along the foreshore has been or will be secured by appropriate arrangements made under the Act, under this plan or under any other environmental planning instrument.
- (3) Any such arrangements may (without limitation) include the zoning of the land for public open space, dedication of the land as a public reserve or the granting of easements or rights of way.

33 Commercial marinas within Zone No W1

The consent authority must not grant development consent to development for the purpose of a commercial marina on land within Zone No W1 unless it is satisfied that access between the marina and the foreshore will not be provided on or across land within Zone No W2, W3, W7 or W8.

34 Boat repair facilities and commercial marinas in Zone No W2

- (1) The objects of this clause are as follows:
 - (a) to maintain the working harbour character and functions of certain existing boat repair facilities by retaining the sites of those facilities for maritime purposes,
 - (b) to ensure that any development carried out on those sites, including any alteration or extension of those facilities, does not substantially increase the scale of those facilities or the intensity of their use.
- (2) Despite any other provision of this plan, development for the purposes of a boat repair facility or commercial marina may be carried out, but only with development consent, on a site shown edged heavy black on the Special Purposes (Boat Repair Facilities and Commercial Marinas) Map.

35 Homebush Bay—Rhodes Peninsula bridge

Despite any other provision of this plan, development for the purposes of a pedestrian and cycle bridge over Homebush Bay, between Homebush Bay West and Rhodes Peninsula, may be carried out, in accordance with the provisions of the *Homebush Bay West Development Control Plan* with respect to such a bridge, but only with development consent.

36 Development on land comprising acid sulfate soils

- (1) This clause applies to such of the land in the Foreshores and Waterways Area as is within Zone No W1, W2, W3, W4, W5, W6, W7, W8 or 8 (a).
- (2) Works that involve the excavation, dredging, filling or contouring of land to which this clause applies, or the extraction of soil or other extractive material from such land, may be carried out only with development consent.

- (3) Despite subclause (2), such works may be carried out without development consent if:
- (a) a copy of a preliminary assessment of the proposed works undertaken in accordance with the *Acid Sulfate Soils Assessment Guidelines* has been given to the consent authority, and
 - (b) the consent authority has provided written advice to the person carrying out the works confirming that results of the preliminary assessment indicate the proposed works need not be carried out pursuant to an acid sulfate soils management plan prepared in accordance with the *Acid Sulfate Soils Assessment Guidelines*.
- (4) The consent authority must not grant development consent as required by this clause unless it has considered:
- (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the *Acid Sulfate Soils Assessment Guidelines*, and
 - (b) the likelihood of the proposed development resulting in the discharge of acid water, and
 - (c) any comments received from the Department within 21 days of the consent authority having sent the Department a copy of the development application and of the related acid sulfate soils management plan.
- (5) This clause requires development consent for the carrying out of works:
- (a) by councils or county councils (within the meaning of the *Local Government Act 1993*), or
 - (b) by private drainage boards (within the meaning of the *Water Management Act 2000*),
- despite any other provision of this plan and despite clause 10 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*.
- (6) This clause does not apply to or in respect of works carried out by or on behalf of the Maritime Authority of NSW or Sydney Ports Corporation.
- (7) In this clause:

acid sulfate soils means actual or potential acid sulfate soils, as defined in the *Acid Sulfate Soils Assessment Guidelines*.

Acid Sulfate Soils Assessment Guidelines means the *Acid Sulfate Soils Assessment Guidelines* as published by the NSW Acid Sulfate Soils Management Advisory Committee and adopted for the time being by the Director-General.

37 Development within 20 metres of boundary of Zone No W2

Despite any other provision of this plan, a consent authority may grant development consent to the development of land that is within 20 metres of the boundary of Zone No W2 and another zone for a purpose for which development may be carried out in either Zone No W2 or the adjoining zone.

38 Development on land in waterways adjoining national parks

Development for any purpose for which development is authorised to be carried out under the *National Parks and Wildlife Act 1974* may be carried out without development consent in the waterway adjoining land that is reserved under that Act, where the development spans the mean high water mark and is part of any other development or activity being carried out on that land.

39 Development and activities in vicinity of national parks

(1) If of the opinion that development in any part of the waterway would be likely to affect land that is reserved under the *National Parks and Wildlife Act 1974*:

(a) a consent authority must not grant development consent for any such development, and

(b) a public authority must not carry out any such development,

unless it has given notice of the proposed development to the Director-General of the Department of Environment and Conservation and has considered any comments received from that Director-General within 30 days after the day on which notice of the proposal was given.

(2) Any such notice by a consent authority must be sent to the Director-General of the Department of Environment and Conservation within 2 days after the date of lodgment of the relevant development application.

Part 4 Strategic foreshore sites

Division 1 Requirement for master plan

40 Application of Division

(1) This Division applies to development that is carried out on a strategic foreshore site.

(2) In this Division, a reference to a strategic foreshore site extends to the whole of any structure (such as a wharf):

(a) that is located partly on land within the site and partly on waters adjacent to the site, and

(b) that is related to the site.

41 Requirement for master plans

- (1) Development consent must not be granted for the carrying out of development on a strategic foreshore site unless:
 - (a) there is a master plan for the site, and
 - (b) the consent authority has taken the master plan into consideration.
- (2) The Minister may waive compliance with the requirements of subclause (1):
 - (a) if satisfied that preparation of a master plan is unnecessary because of:
 - (i) the nature of the proposed development, or
 - (ii) the fact that the proposed development will affect only a small proportion of the site, or
 - (iii) the adequacy of other planning controls applying to the proposed development, or
 - (b) for such other reason as the Minister considers sufficient,so long as the Minister is satisfied that the proposed development will not compromise the application of the planning principles set out in clauses 13, 14 and 15.
- (3) If the Minister is not the consent authority, the Minister is to notify the relevant consent authority, in writing, of a waiver of the requirements of subclause (1).
- (4) A master plan does not have to be prepared for the City Foreshores Area or for Garden Island, as shown on the Strategic Foreshore Sites Map, unless the Minister so directs.
- (5) This clause does not apply to minor development specified in Schedule 3.

Division 2 Master plans

42 Master plans to which Part applies

This Division applies to and in respect of any master plan that is required by Division 1 to be prepared for any land.

43 Appropriate authority

For the purposes of this Part, the **appropriate authority** is:

- (a) the Minister, in relation to any land for which the Minister is the consent authority for any development (whether or not the relevant council or any other public authority is the consent authority for other development), and
- (b) the relevant council, in relation to any other land.

44 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 principles in Part 2 and in any other relevant environmental planning instrument are addressed.

45 Land for which master plan to be prepared

- (1) A master plan for a strategic foreshore site for which the Minister is the appropriate authority may be prepared for the whole of the site or for part only of the site.
- (2) A master plan for a strategic foreshore site for which the relevant council is the appropriate authority must be prepared for the whole of the site unless the Minister directs that it may be prepared for part only of the 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 planning principles set out in clauses 13, 14 and 15.

46 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 is to be prepared following consultation with the appropriate 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 motor vehicle access and circulation networks,
 - (e) parking provision,
 - (f) subdivision pattern,
 - (g) infrastructure provision,
 - (h) building envelopes and built form controls,
 - (i) heritage conservation (including the protection of archaeological relics and places, sites and objects of Aboriginal heritage significance), implementing the guidelines

- set out in any applicable conservation policy or conservation management plan,
- (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*,
 - (n) protection and enhancement of the natural assets of the site and adjoining land,
 - (o) protection and enhancement of the waterway (including water quality) and any aquatic vegetation on or adjoining the site (such as seagrass, saltmarsh, mangroves and algal communities).
- (3) The requirement for consultation under subclause (2) does not apply if the draft master plan is prepared by or on behalf of 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.

47 Consultation

- (1) A draft master plan submitted to the appropriate 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.
- (3) If the appropriate authority is the Minister, a draft master plan must be submitted to the relevant council for comment.
- (4) Any comments made by the Director-General or the relevant council must be taken into consideration prior to finalising the draft master plan.
- (5) The appropriate authority must take into account any written submissions made about the content of the draft master plan during the exhibition period.

48 Adoption of master plans

- (1) A draft master plan must be submitted to the appropriate authority for adoption.
- (2) 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.

- (3) The Minister may adopt a draft master plan for land for which a council is the appropriate authority under clause 43 (b) if the council has rejected, or has not adopted, that plan within 6 months after the date on which it was submitted to the council for adoption.
- (4) The Minister must seek the views of the relevant council concerning the draft master plan before the Minister adopts it.
- (5) A draft master plan becomes a master plan if it is adopted by the appropriate authority or by the Minister under subclause (3).
- (6) When a master plan is adopted, the appropriate authority must advertise the adoption of the master plan in a newspaper circulating in the locality.

49 Amendment of master plans

- (1) A master plan may be amended by another master plan.
- (2) An amendment to a master plan may be dealt with concurrently with a development application.

50 Availability of master plans

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

51 Master plans not required for land dedicated or reserved under [National Parks and Wildlife Act 1974](#)

Nothing in this plan:

- (a) requires a master plan to be prepared:
 - (i) for land that is reserved under the [National Parks and Wildlife Act 1974](#), or
 - (ii) for waterfront land that is adjacent to, and managed in the same manner as, land that is reserved under the [National Parks and Wildlife Act 1974](#), or
- (b) prohibits the carrying out of development on land that is reserved under the [National Parks and Wildlife Act 1974](#) otherwise than in accordance with such a plan.

Part 5 Heritage provisions

Division 1 General

52 General

The matters referred to in this Part (together with any other relevant matters):

- (a) are to be taken into consideration by consent authorities before granting consent to development under Part 4 of the Act, and
- (b) are to be taken into consideration by public authorities and others before they carry out activities to which Part 5 of the Act applies.

53 Objectives

The objectives of this plan in relation to heritage are:

- (a) to conserve the environmental heritage of the land to which this Part applies, and
- (b) to conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items, and
- (c) to ensure that archaeological sites and places of Aboriginal heritage significance are conserved, and
- (d) to allow for the protection of places which have the potential to have heritage significance but are not identified as heritage items.

Note—

Attention is drawn to the provisions of the [Heritage Act 1977](#) and the [National Parks and Wildlife Act 1974](#) under which an approval or permit under either or both of those Acts may be required for certain activities, whether or not development consent is required by this clause.

Division 2 Protection of heritage items

54 Land to which Part applies

This Part applies to and in respect of the land shown on the Heritage Map and to the heritage items identified on that map.

Note—

The heritage items are also listed in Schedule 4.

55 Protection of heritage items

- (1) The following development may be carried out only with development consent:
 - (a) demolishing or moving a heritage item,

- (b) altering a heritage item by making structural or non-structural changes to its exterior, including changes to its detail, fabric, finish or appearance,
 - (c) altering a heritage item by making structural changes to its interior,
 - (d) disturbing or damaging a place of Aboriginal heritage significance or an Aboriginal object,
 - (e) erecting a building on, or subdividing, land on which a heritage item is located.
- (2) Development consent is not required by this clause if:
- (a) in the opinion of the consent authority:
 - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item, and
 - (ii) the proposed development would not adversely affect the significance of the heritage item, and
 - (b) the proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.
- (3) Development consent is not required by this clause for the following development in a cemetery or burial ground if there will be no disturbance to human remains, to relics in the form of grave goods or to a place of Aboriginal heritage significance:
- (a) the creation of a new grave or monument, or
 - (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.
- (4) Before granting development consent as required by this clause, the consent authority must assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item concerned.
- (5) The assessment must include consideration of a heritage impact statement that addresses at least the following issues (but is not to be limited to assessment of those issues, if the heritage significance concerned involves other issues):
- (a) the heritage significance of the item as part of the environmental heritage of the land to which this Part applies, and
 - (b) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features, and

- (c) the measures proposed to conserve the heritage significance of the item and its setting, and
- (d) whether any archaeological site or potential archaeological site would be adversely affected by the proposed development, and
- (e) the extent to which the carrying out of the proposed development would affect the form of any historic subdivision.

(6) The consent authority may also decline to grant development consent until it has considered a conservation management plan, if it considers the development proposed should be assessed with regard to such a plan.

56 Advertised development

The following development is identified as advertised development:

- (a) the demolition of a heritage item, and
- (b) the carrying out of any development allowed by clause 60.

Division 3 Protection of places of potential heritage significance

57 Development affecting matters of Aboriginal heritage significance

- (1) Before granting development consent for development that is likely to have an impact on a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or that will be carried out on an archaeological site of a relic that has Aboriginal heritage significance, the consent authority:
 - (a) must consider an Aboriginal heritage impact assessment that has been prepared in accordance with any relevant guidelines established by the Department of Environment and Conservation and that documents the views of local Aboriginal communities, and
 - (b) except where the proposed development is integrated development by virtue of the requirement for consent under section 90 of the *National Parks and Wildlife Act 1974*, must notify the local Aboriginal communities (in such way as it thinks appropriate) and the Director-General of the Department of Environment and Conservation of its intention to do so and take into consideration any comments received in response within 28 days after the relevant notice is sent.
- (2) The notice referred to in subclause (1) (b) must be sent to the local Aboriginal communities and the Director-General of the Department of Environment and Conservation by the consent authority within 2 days after the date of lodgment of the relevant development application.

58 Development affecting matters of non-Aboriginal heritage significance

- (1) Before granting development consent for development that will be carried out on an archaeological site or a potential archaeological site of a relic that has non-Aboriginal heritage significance (whether or not it is, or has the potential to be, also the site of a relic of Aboriginal heritage significance), the consent authority:
 - (a) must consider a heritage impact statement explaining how the proposed development will affect the conservation of the site and any relic known or reasonably likely to be located at the site, and
 - (b) must notify the Heritage Council of its intention to do so and take into consideration any comments received in response within 28 days after the notice is sent.
- (2) The notice referred to in subclause (1) (b) must be sent to the Heritage Council by the consent authority within 2 days after the date of lodgment of the relevant development application.
- (3) This clause does not apply:
 - (a) if the proposed development does not involve disturbance of below-ground deposits, and if the consent authority is of the opinion that the heritage significance of any above-ground relics would not be adversely affected by the proposed development, or
 - (b) if the proposed development is integrated development by virtue of:
 - (i) the requirement for consent under section 90 of the *National Parks and Wildlife Act 1974*, or
 - (ii) the requirement for approval under section 57 of the *Heritage Act 1977*.

Division 4 Miscellaneous

59 Development in vicinity of heritage items

- (1) Before granting development consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item.
- (2) This clause extends to development:
 - (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
 - (b) that may undermine or otherwise cause physical damage to a heritage item, or
 - (c) that will otherwise have any adverse impact on the heritage significance of a

heritage item.

- (3) The consent authority may refuse to grant development consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item.
- (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.

60 Conservation incentives

The consent authority may grant development consent to the use for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though the use would otherwise not be allowed by this plan, if:

- (a) it is satisfied that the retention of the heritage item depends on the granting of development consent, and
- (b) the proposed use is in accordance with a conservation management plan which has been endorsed by the consent authority, and
- (c) the granting of development consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out, and
- (d) the proposed use would not adversely affect the heritage significance of the heritage item or its setting, and
- (e) the proposed use would not adversely affect the amenity of the surrounding area otherwise than to an insignificant extent.

Part 6 Wetlands protection

61 Objectives

The objectives of this plan in relation to wetlands are:

- (a) to preserve, protect and encourage the restoration and rehabilitation of wetlands, and
- (b) to maintain and restore the health and viability of wetlands, and
- (c) to prevent the fragmentation of wetlands, and
- (d) to preserve the scenic qualities of wetlands, and
- (e) to ensure that wetlands continue to perform their natural ecological functions (such as

the provision of wetland habitat, the preservation of water quality, the control of flooding and erosion).

Note—

Attention is drawn to the provisions of the [National Parks and Wildlife Act 1974](#) under which approval under that Act may be required for certain activities (such as the disturbance of Aboriginal objects or places) whether or not development consent is required by this clause. Attention is also drawn to the requirements of the [Fisheries Management Act 1994](#) for all dredging proposals to be referred to the Minister administering that Act.

62 Requirement for development consent

- (1) Development within a wetlands protection area may be carried out only with development consent.
- (2) Development consent is not required by this clause:
 - (a) for anything (such as dredging) that is done for the sole purpose of maintaining an existing navigational channel, or
 - (b) for any works that restore or enhance the natural values of wetlands (including works to restore or enhance plant communities, water levels, water flows or soil composition), being works:
 - (i) that are carried out to rectify damage arising from a contravention of this plan, and
 - (ii) that are not carried out in association with any other development, and
 - (iii) that have no significant impact on the environment beyond the site on which they are carried out.
- (3) Development consent is not required by this clause for any other development if:
 - (a) in the opinion of the consent authority:
 - (i) the proposed development is of a minor nature, and
 - (ii) the proposed development would not adversely affect the wetland or wetlands protection area, and
 - (b) the proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.
- (4) This clause does not apply to development carried out by or on behalf of the Maritime Authority of NSW or Sydney Ports Corporation.

- (5) This clause does not apply to development that is prohibited by any other environmental planning instrument.

63 Matters for consideration

- (1) The matters referred to in this clause (together with any other relevant matters):
- (a) are to be taken into consideration by consent authorities before granting consent to development under Part 4 of the Act, and
 - (b) are to be taken into consideration by public authorities and others before they carry out activities to which Part 5 of the Act applies.
- (2) The matters to be taken into consideration in relation to any development are as follows:
- (a) the development should have a neutral or beneficial effect on the quality of water entering the waterways,
 - (b) the environmental effects of the development, including effects on:
 - (i) the growth of native plant communities,
 - (ii) the survival of native wildlife populations,
 - (iii) the provision and quality of habitats for both indigenous and migratory species,
 - (iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding areas, including salinity and water quality and whether the wetland ecosystems are groundwater dependent,
 - (c) whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment,
 - (d) whether carrying out the development would be consistent with the principles set out in *The NSW Wetlands Management Policy* (as published in March 1996 by the then Department of Land and Water Conservation),
 - (e) whether the development adequately preserves and enhances local native vegetation,
 - (f) whether the development application adequately demonstrates:
 - (i) how the direct and indirect impacts of the development will preserve and enhance wetlands, and
 - (ii) how the development will preserve and enhance the continuity and integrity of

the wetlands, and

- (iii) how soil erosion and siltation will be minimised both while the development is being carried out and after it is completed, and
 - (iv) how appropriate on-site measures are to be implemented to ensure that the intertidal zone is kept free from pollutants arising from the development, and
 - (v) that the nutrient levels in the wetlands do not increase as a consequence of the development, and
 - (vi) that stands of vegetation (both terrestrial and aquatic) are protected or rehabilitated, and
 - (vii) that the development minimises physical damage to aquatic ecological communities, and
 - (viii) that the development does not cause physical damage to aquatic ecological communities,
- (g) whether conditions should be imposed on the carrying out of the development requiring the carrying out of works to preserve or enhance the value of any surrounding wetlands.

Schedule 1 Maps incorporated in plan

(Clause 6)

Critical Habitat Area Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Little Penguin Critical Habitat Map*”.

Foreshores and Waterways Area Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Foreshores and Waterways Area Map*”.

Heritage Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Heritage Map*”.

Special Purposes (Boat Repair Facilities and Commercial Marinas) Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Special Purposes (Boat Repair Facilities and Commercial Marinas) Map*”, comprising the sheets marked as follows:

Sheet 1—Davis Marina

Sheet 2—Manly Boatshed

Sheet 3—Sailors Bay Boatshed

Strategic Foreshore Sites Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Strategic Foreshore Sites Map*”, comprising the sheets marked as follows:

- Sheet 1—City Foreshores Area
- Sheet 2—Garden Island
- Sheet 3—North Head
- Sheet 4—St Patrick’s Estate, North Head Peninsula
- Sheet 5—Manly Wharf
- Sheet 6—Middle Head
- Sheet 7—Taronga Zoological Gardens
- Sheet 8—HMAS Platypus
- Sheet 9—Luna Park
- Sheet 10—SRA land, Lavender Bay
- Sheet 11—BP site, Berrys Bay
- Sheet 12—Coal Loader site, Balls Head
- Sheet 13—HMAS Waterhen
- Sheet 14—Woolwich Defence Land
- Sheet 15—Gladesville Hospital site
- Sheet 16—ADI site, Ryde
- Sheet 17—Shepherds Bay, Meadowbank
- Sheet 18—Naval Stores site, Ermington
- Sheet 19—Leeds Street, Rhodes
- Sheet 20—Rivendell Adolescent Unit
- Sheet 21—Concord Repatriation General Hospital
- Sheet 22—The Dame Eadith Walker Hospital
- Sheet 23—AGL site, Mortlake
- Sheet 24—Cockatoo Island, Spectacle Island and Snapper Island
- Sheet 25—Caltex site, Ballast Point
- Sheet 26—Fletcher site, Blackwattle Bay
- Sheet 27—Strickland House, Vaucluse
- Sheet 28—HMAS Watson, South Head

Sydney Harbour Catchment Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Sydney Harbour Catchment Map*”.

Wetlands Protection Area Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Wetlands Protection Area Map*”.

Zoning Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Zoning Map*”.

Schedule 2 Development to be referred to Foreshores and Waterways Planning and Development Advisory Committee

(Clauses 29 and 31)

Development for any of the following purposes:

- advertisements
- advertising structures
- aviation facilities
- boat launching ramps
- boat lifts
- boat repair facilities
- boat sheds
- charter and tourism boating facilities
- commercial marinas
- commercial port facilities
- commercial or retail use of land below or partly below mean high water mark
- dredging
- flora and fauna enclosures
- houseboats
- inclinators
- private landing facilities (including jetties, wharves and pontoons)
- private marinas
- public boardwalks
- public water recreational facilities

public water transport facilities

reclamation works

recreational or club facilities

residential use of land below or partly below mean high water mark

retaining walls

sea walls

skids

swimming enclosures

water-based restaurants and entertainment facilities

waterfront access stairs

Demolition (including demolition, in its extended meaning, in relation to heritage items)

Schedule 3 Minor development

(Clause 41)

1 Change of use

A different use of an existing building resulting from a change of use of the building.

2 Extension or variation of operating or trading hours

Any intensification of a use resulting from an extension or other variation of operating or trading hours.

3 Temporary uses

A temporary use for 2 years or less (not being the use of a temporary structure referred to in item 6).

4 Internal building work

Structural or non-structural alterations (such as commercial or retail fitouts) within an existing building.

5 External building work

(1) Erection or installation of any telecommunications device (such as an aerial, antenna, microwave dish or satellite dish) other than a device that, when erected or installed, would be visible from a waterway.

(2) Erection or installation of any awning or canopy.

- (3) Erection or installation of any minor structure (such as a flue, solar panel or flag pole).
- (4) Minor structural or non-structural alterations (such as the enclosure of a balcony, changes to a window or door or the installation of an automatic telling machine) to the outside of an existing building.

6 Temporary structures

- (1) The erection of a temporary structure for a period of not more than 60 days, whether consecutive or not, in any period of 12 months.
- (2) In this clause, **temporary structure** includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

7 Development within the public domain

- (1) The provision and use of outdoor seating or tables or street furniture (such as benches, bollards, public artwork installations, street lights, telephone kiosks and tree surrounds) on a footpath, or in a plaza or other public place.
- (2) The use of the public domain for temporary purposes (such as the conduct of a festival, performance or promotion or the exhibition of artwork) for a period of not more than 30 days, whether consecutive or not, in any period of 12 months.
- (3) The construction of an access way for pedestrians or vehicles and any associated works.

8 Signage

The erection, installation or display of any signage (such as signage for building or business identification or for business or product advertisement) other than signage that, when erected, installed or displayed, would be visible from a waterway.

9 Advertising

The erection of any advertising structure, or the display of any advertisement, other than an advertising structure or advertisement that, when erected or displayed, would be visible (whether from a waterway or otherwise) outside the premises in which it is situated.

10 Demolition

- (1) 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.
- (2) The demolition of any structure whose erection is minor development pursuant to

some other provision of this Schedule, except where the demolition forms part of or is associated with State significant development.

11 Strata and community subdivision

- (1) Any strata or neighbourhood subdivision of land with respect to any 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.
- (2) In this clause:

neighbourhood subdivision means subdivision by means of a neighbourhood plan, a neighbourhood plan of consolidation or a neighbourhood plan of subdivision within the meaning of the [Community Land Development Act 1989](#).

strata subdivision means subdivision by means of a strata plan, a strata plan of consolidation 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](#).

Schedule 4 Heritage items

(Dictionary)

Part 1 Heritage items in Parramatta River Area

Note—

Further details on these items can be found in the *Parramatta River Regional Environmental Study—Heritage Study*. “S” (State significance) identifies those items that are listed on the State Heritage Register, that have been assessed in a relevant heritage study as being of State heritage significance or that are listed in a register kept under section 170 of the [Heritage Act 1977](#).

Item no	Local government area	Name or description of heritage item	Address	S = State significance
1	—	Cockatoo Island		S
2	—	Spectacle Island		S
3	—	Snapper Island		
4	—	Balmain to Greenwich Tunnel, including docking facilities and service buildings	Under harbour, from Long Nose Point, Balmain to Manns Point, Greenwich	S
5	Leichhardt	Long Nose Point Wharf	Louisa Road, Birchgrove	
6	Leichhardt	Boat sheds only, Louisa Road	Louisa Road, opposite steps to Deloitte Avenue, Birchgrove	
7	Leichhardt	Elliott Street Wharf	Elliott Street, Balmain	

8	Leichhardt	Punch Street Wharf	Punch Street, Balmain	
9	Leichhardt	Cove Street Wharf	Cove Street, Balmain	
10	Leichhardt	Former Callan Park Hospital Wharf	Rozelle Hospital, Rozelle	
11	Leichhardt	Leichhardt Wharf	Leichhardt Park, Leichhardt	
12	Leichhardt	Stone retaining walls	Iron Cove	
13	Canada Bay	Stone retaining walls	Five Dock Bay	
14	Canada Bay	Stone retaining walls	Hen and Chicken Bay	
15	—	Rodd Island	Iron Cove	S
16	Canada Bay	Thompson Street Wharves	Thompson Street and Henley Marine Drive, Drummoyne	
17	—	Iron Cove Bridge	Iron Cove	
18	Canada Bay	Wharves/Reclaimed Land, access from Peppercorn Reserve and Salton Reserve	St Georges Crescent, Drummoyne	
19	Canada Bay	Wolseley Street Wharf	Wolseley Street, Drummoyne	
20	Canada Bay	Clovelly House boat shed	Drummoyne Avenue, Drummoyne	
21	Canada Bay	Federation House boat shed	Drummoyne Avenue, Drummoyne	
22	—	Gladesville Bridge, including abutments		S
23	Canada Bay	Stone Wharf, Blackwall Point	11 Bortfield Drive, Chiswick	
24	Canada Bay	Abbotsford Jetty	Great North Road, Abbotsford	
25	Canada Bay	Newington College boat shed and grounds	Checkley Street, Abbotsford	
26	Canada Bay	Site of former swimming baths at Hen and Chicken Bay	Bayview Park, Concord	
27	Canada Bay	Former Cabarita Wharf	Cabarita Park, Cabarita	
28	Canada Bay	Sanders Marina	Cabarita Park, Cabarita	

29	Canada Bay	Federation House boat shed only	87 Llewellyn Street, Rhodes	
30	Canada Bay	Stone Wharf	91 Llewellyn Street, Uhrs Point, Rhodes	
31	—	Ryde Bridge	Church Street, Ryde to Concord Road, Rhodes	
32	—	Ryde Railway Bridge	Northern Railway Line, bridge between Rhodes and Meadowbank	
33	Auburn	Log Ponds and Wharves to Timber Yards	Bennelong Point, Homebush Bay	
34	Auburn	Newington Arms Depot Wharf	Newington Arms Depot, Silverwater	
35	Parramatta	Shell Oil Refinery Wharf	Duck River	
36	Parramatta	Industrial Wharves	33 Grand Avenue, Camellia	
37	Parramatta	Former Spurway Street Wharf	Spurway Street, Ermington	
38	Parramatta	Former McDonald Farm Wharf	George Kendall Reserve, Ermington	
39	Parramatta	Wharf and Reserve	George Kendall Reserve, Ermington	
40	Parramatta	Former Pennant Hills Wharf	Wharf Road, Ermington	
41	Ryde	Former Log Road and Private Wharf	Continuation of Cobham Street, Melrose Park, West Ryde	
42	Ryde	Timber Wharves	Either side of Ryde Railway Bridge, Ryde	
43	Ryde	Private Wharf	Below Rothesay Avenue, Meadowbank	
44	Ryde	Former Ryde Wharf	Parsonage and Belmore Streets, Ryde	
45	Ryde	Former Swimming Baths	End of Regent Street and Osborne Avenue, Ryde	
46	Ryde	Naval Refit Centre	Waterview Street, Putney	S
47	Ryde	Putney Wharf	Putney Parade, Putney	

48	Ryde	Scots College boat shed	3 Delmar Parade, Gladesville
49	Ryde	Former Gladesville Wharf	Wharf Road, Looking Glass Point, Gladesville
50	Ryde	Sydney Grammar School boat shed	88 Wharf Road, Gladesville
51	Ryde	Punt Road Wharf	Punt Road, Gladesville
52	—	Searles Monument	The Brothers, off Blackwall Point, Henley, Parramatta River S

Part 2 Heritage items identified in Sydney and Middle Harbour Areas

Note—

Further details on these items can be found in the *Sydney and Middle Harbours Heritage Study* or the State Historic Shipwrecks Register.

Item no	Local government area	Name or description of heritage item	Address	S = State significance
1	Sydney	Ferry Wharves	Alfred Street, Circular Quay	S
2	Sydney	Man O'War Steps	Farm Cove Crescent, Sydney	S
3	Sydney	Remains of the former Andrew (Boy) Charlton Pool	Mrs Macquarie's Road, Sydney	
4	Sydney	Site of Robinson's Baths	Mrs Macquarie's Road, Sydney	
5	Sydney	Former Woolloomooloo Deep Sea Wharves Nos 6, 7, 8, 9 and 11, and Cargo Sheds at Cowper Wharf Road and Lincoln Crescent, Woolloomooloo, and the land and the waterway between Wharf No 11 and the other Wharves	Cowper Wharf Road and Lincoln Crescent, Woolloomooloo	S

		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	
6	Sydney	(h) Buildings 16/17 and 18/19/ 20—Residences	Off Cowper Wharf Road, Garden Island, S
		(i) Building 98—Core Shop	
		(j) Building 25—Boat Shed	
		(k) Buildings 7 and 8—Workshop and Store	
		(l) Figurehead of the Ship “Windsor Castle”	
		(m) Figurehead of the Ship “Consuela”	
		(n) Former Garden	
		(o) Former “Clarens” Garden Remains	
7	Ku-ring-gai	Remains of Roseville Baths	99 Babbage Road, Roseville
8	Ku-ring-gai	Remains of old Roseville Bridge	Babbage Road, Roseville

9	Ku-ring-gai	Site of Echo Point Farm (including slipway)	Echo Point Park, Babbage Road, Roseville	
10	Lane Cove	Electricity Tunnel	Foreshore of Manns Point Reserve, Greenwich	
11	Lane Cove	Boat shed and slips	O'Connell and Albert Streets, Greenwich	
12	Leichhardt	Site and remains of former Morts Dock	Foreshore of park, Balmain	
13	Leichhardt	Site and remains of ferry wharf	Yeend Street, Balmain	
14	Leichhardt	Urban Transit Authority Ferry Maintenance Depot	Alexander and Waterview Streets, Balmain	S
15	Leichhardt	Site of Rowntree's Floating Dock	Hart Street and The Avenue, Balmain	
16	Leichhardt	Remains of former Tasmanian Ferry Terminal	Yeend Street, Balmain	
17	Leichhardt	Tidal Pool	13 Simmons Street, Balmain	
18	Manly	Manly Wharf	The Esplanade, Manly	S
19	Manly	Grotto Point lighthouse and remains of former wharf	Grotto Point, Balgowlah	
20	Manly	Little Manly Cove Pool	Stuart Street, Manly	
21	Manly	Fairlight Pool	Lauderdale Avenue, Fairlight	
22	Manly	Site and remains of Brightside cargo wharf	Stuart Street, Manly	
23	Manly	Site and remains of harbour side pool and steps	Stuart Street, Manly	
24	Manly	Remains of Manly Public Baths	East Esplanade, Manly	
25	Mosman	Stone Wharf	National Park, Bradley's Head	

26	North Sydney	Sydney Harbour Queen	Moored in Berrys Bay, Waverton (formerly moored west of Luna Park, Milsons Point)
27	North Sydney	Site of Cavill's Baths	Foreshore of Lavender Bay
28	North Sydney	Lavender Bay ferry wharf	Walker Street, Kirribilli
29	South Sydney	Site of Ithaca Road ferry wharf	Ithaca Road, Elizabeth Bay
30	Warringah	Bantry Bay Public Powder Magazine	Foreshores of Bantry Bay, Killarney Heights
31	Warringah	Flat Rock Landing Place	Killarney Drive, Killarney Heights
32	Warringah	Former Killarney Picnic Ground (including wharf)	Partially Garigal National Park, partially Mosman Rowing Club, Killarney Drive, Killarney Heights
33	Willoughby	Site and remains of wharfage	Fig Tree Point, Hallstrom Close, Northbridge
34	Willoughby	Remains of H C Press picnic ground and public baths	Cammeray Road, Castle Cove
35	Willoughby	Willis Road wharf	Willis Road, Castle Cove
36	Willoughby	Sailors Bay boat shed	Clive Park, Northbridge
37	Willoughby	Former Horsley's boat shed and sea wall (now a house)	217B Edinburgh Road, Castlecrag
38	Willoughby	Site and remains of early wharfage (now occupied by Castlecrag marina)	Rockley Street, Castlecrag
39	Willoughby	Stone walls	297A Edinburgh Road, Castlecrag
40	Willoughby	Remains of Municipal Baths, structures and access steps	241 Edinburgh Road, Castlecrag
41	Willoughby	Stone walls, steps and baths	213-217B Edinburgh Road, Castlecrag

42	Woollahra	HMAS Rushcutter slipways	9 New Beach Road, Darling Point
43	Woollahra	Ferry Pier	Military Road, Watsons Bay
44	Woollahra	West Parsley Bay obelisk	65 Fitzwilliam Road, Vaucluse
45	Woollahra	East Parsley Bay obelisk	Between properties 36A and 38, The Crescent, Vaucluse
46	Woollahra	Remains of Bath House and site of jetty	Darling Point Road, Darling Point
47	Woollahra	Pilot Station	Marine Parade and Salisbury Street, Watsons Bay
48	Woollahra	Green Point obelisk	Off Pacific Street, Watsons Bay
49	Woollahra	Site of former Rose Bay Flying Boat Base	Lyne Park, Rose Bay
50	Woollahra	Watsons Bay Pool	Marine Parade, Watsons Bay
51	Woollahra	Remains of old Watsons Bay Pool	Marine Parade and Salisbury Street, Watsons Bay
52	Woollahra	Gladswood House private jetty	11 Gladswood Gardens, Double Bay
53	Woollahra	Chinese boat shed	20 Wolseley Road, Point Piper
54	Woollahra	Remains of Vaucluse Point ferry wharf	83 Fitzwilliam Street, Vaucluse
55	Woollahra	Remains of Western Rose Bay ferry wharf	New South Head Road, Rose Bay
56	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
57	Woollahra	Camp Cove tide gauge	Cliff Street, Camp Cove
58	Woollahra	Vaucluse Baths	68 Wentworth Road, Vaucluse

59	Woollahra	Site of Public Baths	Lyne Park, Rose Bay	
60	Woollahra	Parsley Bay Ferry Wharf	The Crescent, Vaucluse	
61	Woollahra	Former Nielsen Wharf remains	Steel Point, Vaucluse	
62	Woollahra	Shark Beach promenade and amenities	Nielsen Park, Steel Point, Vaucluse	
63	Woollahra	Hermit Bay Wharf, slipway and landing	Vaucluse Road, Vaucluse	
64	Woollahra	Site of wharf	Wingadal Place, Point Piper	
65	Woollahra	Site of Village Point Wharf (Kutti Beach Ferry Wharf)	Wharf Road, Vaucluse	
66	Woollahra	Site of Public Wharf (now occupied by new wharf)	Bay Street, Double Bay	
67	—	Sydney Harbour Bridge, including approaches and viaducts (road and rail)	Port Jackson	S
68	—	Glebe Island Bridge, including abutments	Blackwattle Bay	S
69	—	Fort Denison, Sydney Harbour	Sydney Harbour	S
70	—	Goat Island, including: former harbour master's residence, pathway from magazine precinct to water police station precinct, former ordinance magazine, former laboratory (original cooperage), former cooperage, wall gate and sentry post (entry to magazine area), former barracks, former kitchen, Andersons Counc, lime kiln, Barney's Cut, former water police station	Sydney Harbour	S

71	—	Navigation light Tower—western channel (Georges Head)	Sydney Harbour	
72	—	Navigation light tower—eastern channel (Bottle and Glass Rocks)	Sydney Harbour	
73	—	Wreck of the “Itata” and wrecks of other unnamed vessels	Salt Pan Creek, Middle Harbour	
74	—	Wreck of Maritime Services Board Hopper Barge	Foreshores of Berrys Bay, Sydney Harbour	
75	—	Navigation light tower	Off Shark Island, Sydney Harbour	
76	—	Wreck of the “Catherine Adamson”	Old Man’s Hat, North Harbour, Sydney Harbour	
77	—	Wreck of the “Centennial”	Taylor’s Bay, Sydney Harbour	
78	—	Wreck of the “Centurion”	Cannae Point, North Head, Sydney Harbour	
79	—	Wreck of the “Currajong”	Off Bradleys Head, Sydney Harbour	
80	—	Wreck of the “Edward Lombe”	Middle Harbour	
81	—	Wreck of the “Fame”	Sow and Pigs Shoal, Sydney Harbour	
82	—	Shark Island	Sydney Harbour	
83	—	Clark Island	Sydney Harbour	
84	—	Wreck of Hopper Barge	150 metres east of Clark Island	
85	—	The Spit Bridge	Spit Road, Balgowlah/ Mosman	S

Part 3 Heritage items in Lane Cove River Area

Note—

Further details on these items can be found in the *Regional Environmental Study for Lane Cove River and Inner Harbour*.

Item no	Local government area	Name or description of heritage item	Address	S = State significance
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1	Hunter's Hill	Remains of Bath	Boronia Park, Hunters Hill
2	Hunter's Hill	Hunters Hill Wharf and Waiting Shed	453 Ferry Street, Hunters Hill

Schedule 5 Amendment of other environmental planning instruments

(Clause 9)

5.1 State Environmental Planning Policy No 35—Maintenance Dredging of Tidal Waterways

Schedule 1

Omit the following:

Sydney Regional Environmental Plan No 22—Parramatta River
Sydney Regional Environmental Plan No 23—Sydney and Middle Harbours

Insert at the end of the Schedule:

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

5.2 State Environmental Planning Policy No 56—Sydney Harbour Foreshores and Tributaries

[1] Clause 4 Land to which this Policy applies

Insert after clause 4 (1):

(1A) Despite subclause (1), this Policy does not apply to any land other than land edged heavy black on the sheet of the map marked "*Schedule 1—Map 16—Luna Park*".

Note—

Pursuant to section 7 (1) of the *Callan Park (Special Provisions) Act 2002*, this Policy, as in force immediately before the commencement of that Act, continues to apply to Callan Park, subject to the other provisions of that section.

[2] Clause 10 Consent authority

Omit the clause.

5.3 Sydney Regional Environmental Plan No 24—Homebush Bay Area

[1] Clause 2 Land to which plan applies

Omit clause 2 (2).

[2] Schedule 2 Definitions

Insert at the end of the definition of **Homebush Bay Area Map**:

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Foreshores and Waterways Area Map

5.4 Sydney Regional Environmental Plan No 26—City West

Clause 2 Area covered by this plan

Insert “and such of that land as is within waters to which *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* applies” after “on that map”.

5.5 Sydney Regional Environmental Plan No 29—Rhodes Peninsula

Clause 4 How environmental planning instruments affect the Rhodes Peninsula

Omit “*State Environmental Planning Policy No 56—Sydney Harbour Foreshores and Tributaries*” from clause 4 (5).

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

5.6 Concord Local Environmental Plan No 103 (Heritage)

Clause 4 Relationship to other environmental planning instruments

Omit “clause 21 of *State Environmental Planning Policy No 56—Sydney Harbour Foreshores and Tributaries*” from clause 4 (3).

Insert instead “clause 43 of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*”.

5.7 Drummoyne Local Environmental Plan 1986

[1] Clause 7B What is complying development?

Omit clause 7B (3) (c).

[2] Clause 27 Covenants, agreements etc

Omit “where the development is within land to which clause 11 of the *Sydney Regional Environmental Plan No 22—Parramatta River* applies, or” from clause 27 (1).

5.8 Mosman Local Environmental Plan 1998

Clause 27 Foreshore scenic protection area

Omit “*Sydney Regional Environmental Plan No 23—Sydney and Middle Harbours*” wherever occurring.

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

5.9 North Sydney Local Environmental Plan 1989

Clause 73 Former BP Site, Coal Loader Site and Caltex Site, Balls Head

Omit “*Sydney Regional Environmental Plan No 23—Sydney and Middle Harbours*” from clause 73 (2).

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

5.10 North Sydney Local Environmental Plan 2001

Clause 38 Development within the foreshore building area

Omit clause 38 (1) (c). Insert instead:

- (c) recognise and implement the aims and objectives of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*, and

Dictionary

(Clause 4)

Aboriginal object means any deposit, object or material evidence (other than a handcraft made for sale) relating to present or past Aboriginal habitation, and includes Aboriginal remains.

advertisement has the same meaning as it has in *State Environmental Planning Policy No 64—Advertising and Signage*.

advertising structure has the same meaning as it has in *State Environmental Planning Policy No 64—Advertising and Signage*.

Advisory Committee means the Foreshores and Waterways Planning and Development Advisory Committee constituted by clause 28.

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

archaeological site means the site of one or more relics.

aviation facility means an area of the waterway set aside, or a structure provided, for the purpose of

aircraft landing or taking off.

boat launching ramp means a structure designed primarily for the launching of trailer-borne recreational vessels, 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 such a device if it forms part of a boat repair facility or commercial marina.

boat repair facility means any building, structure or facility used primarily for the construction, maintenance, repair, sale or hire of boats, whether or not including the storage of boats or other vessels, but does not include a commercial marina.

boat shed means a building or other structure, associated with a private residence, that is used for the storage and routine maintenance of one or more boats, and includes any skid used in connection with any such building or other structure.

charter and tourism boating facility means any structure used for charter boating or tourism boating purposes, being a structure that is open only to users or operators of the structure, and having a direct structural connection between the foreshore and the waterway, but does not include a private marina or commercial marina.

commercial marina means a permanent boat storage facility (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) together with any associated facilities, including:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and
- (b) any facility for providing fuelling, sewage pump-out or other services for boats, and
- (c) any facility for launching or landing boats, such as slipways or hoists, and
- (d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and
- (e) any associated single mooring,

but does not include a boat repair facility or a private marina.

commercial port facility means any structure used in connection with the carrying of goods or persons by water from one port to another for business or commercial purposes, being a structure having a direct structural connection between the foreshore and the waterway.

community facility means a building or place that provides for the physical, social, cultural, religious or intellectual development or welfare of the community.

conservation means preservation, protection, restoration or enhancement.

conservation management plan means a document, prepared in accordance with the guidelines issued by the Director of the Heritage Office:

- (a) that identifies various places, buildings, works, relics, moveable objects and precincts as having State or local heritage significance, and

- (b) establishes conservation policies and management mechanisms for the retention of that significance.

demolish a heritage item means wholly or partly destroy, dismantle or deface the heritage item.

dredging means the removal of material from the sea or harbour bed or the bed of a river, being an activity for the purpose of constructing a new or deeper navigational area or channel or re-opening a discontinued navigational area or channel, but does not include intertidal dredging or maintenance dredging.

earthwork means the addition or removal of any solid material on, to or from the land or any other work, being an activity that substantially alters the existing ground level or character of the surface of that land.

flora and fauna enclosure means a net or other structure used for the purpose 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 land shown edged heavy black on the Foreshores and Waterways Area Map.

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

height of a building means the vertical distance (measured in metres) between:

- (a) the natural surface level of the ground on which the building is situated or, if the ground has been excavated, the natural surface level of the adjoining public domain, and
- (b) the topmost point of the building (including plant, lift over-runs and telecommunications devices installed on top of the building).

heritage impact statement means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

heritage item means:

- (a) a building, work, archaeological site or place:
 - (i) that is specified in an inventory of heritage items prepared for the purposes of this plan, being an inventory that is available at the head office of the Department, and
 - (ii) that is situated on a site described in Schedule 4 and identified on the Heritage Map, or
- (b) a place:

- (i) that is specified in an inventory of heritage items prepared for the purposes of this plan, being an inventory that is available at the head office of the Department, and
- (ii) that is described in the inventory as a place of Aboriginal heritage significance.

Note—

The items listed in paragraph (a) include only those that are not otherwise heritage items under some other environmental planning instrument.

heritage significance means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

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

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

intertidal zone means the area between the zero tide (that is, where the tide measures zero on the Fort Denison Tide Gauge, or -0.925 metres Australian Height Datum) and the highest astronomical tide (that is, where the tide measures 2.1 metres above zero on the Fort Denison Tide Gauge, or 1.175 metres Australian Height Datum).

land-based development means any development carried out wholly above the mean high water mark, and development for any of the following purposes:

- (a) boat sheds,
- (b) reclamation works,
- (c) sea walls,
- (d) swimming pools,
- (e) waterfront access stairs,

but does not include land/water interface development or water-based development.

land/water interface development means development for any of the following purposes:

- (a) boat repair facilities,
- (b) boat launching ramps,
- (c) commercial marinas,
- (d) water-based restaurants and entertainment facilities,
- (e) water recreational facilities,
- (f) when carried out wholly or partly in the waterway:
 - (i) dwellings of any type (including serviced apartments),

- (ii) commercial premises,
- (iii) tourist facilities,
- (iv) shops and retailing,
- (v) restaurants,
- (vi) recreational or club facilities (whether used for activities based on land or on water),
- (vii) car-parking,

and includes land-based development and water-based development when carried out as part of development for a purpose referred to above.

maintenance means the ongoing protective care of a heritage item, but does not include alterations (such as carrying out extensions or additions) or the introduction of new materials or technology.

maintenance dredging means removal of material from the sea or harbour bed or the bed of a river where the activity is for the purpose of maintaining the previously established harbour or river depth.

master plan means a master plan, as in force for the time being, adopted under Division 3 of Part 4.

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, which is taken for the purposes of this plan to be 1.48 metres above zero on the Fort Denison Tide Gauge, or 0.555 metres Australian Height Datum.

mooring pen means an arrangement of freestanding piles or other restraining devices within which a vessel is permanently berthed.

native plant means any plant (including any tree, shrub, fern, vine, herb or grass) that is native to the Sydney Harbour Catchment.

place of Aboriginal heritage significance means:

- (a) a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people, which 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) a natural Aboriginal sacred site or other sacred feature, which may (but need not) include 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.

potential archaeological site means a site:

- (a) that is specified in an inventory of archaeological sites available at the office of the relevant council and described in the inventory as a potential archaeological site, or
- (b) that, in the opinion of the consent authority, has the potential to be an archaeological site, even if it is not so specified.

potential place of Aboriginal heritage significance means a place:

- (a) that is specified in an inventory of heritage items available at the office of the relevant council and described in the inventory as a potential place of Aboriginal heritage significance, or
- (b) that, in the opinion of the consent authority, has the potential to have Aboriginal heritage significance, even if it is not so specified.

private landing facility means a structure (such as a wharf, jetty or pontoon) that is used to enable a vessel to embark or disembark passengers, or to load or unload goods, being a structure that is not generally available for public use, but does not include private landing steps.

private landing steps means steps used for launching and retrieving vessels, being steps that are not generally available for public use.

private marina means an apparatus or structure located on or in the waterway and used for restraining two or more vessels, but does not include a commercial marina or mooring pen.

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 that is intended merely to provide direct access to a vessel.

public domain means land available for public use and includes streets, lanes, squares, playgrounds, parks, open shopping malls, pedestrian walkways, cycleways, pedestrian overpasses and underpasses, colonnades, balconies, terraces and the like.

public open space means:

- (a) any part of the public domain that is set aside for public recreation, or for a temporary use, and to which public access is unrestricted, or
- (b) any part of the public domain that is unfenced and that is set aside for commercial seating associated with restaurants, cafes or the like,

but does not include land on which any building (other than a temporary structure) is situated.

public water recreational facility means a pier, wharf, boat shed or other waterfront structure that is primarily used for public recreation.

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

reclamation work means any work that involves:

- (a) the filling or draining of submerged land for the purpose of reclaiming the land, or
- (b) the filling of submerged land for the purpose of supporting a building or structure (such as 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 the purpose of gain or not.

relic means any deposit, object or material evidence:

- (a) which relates to the settlement of that area that comprises New South Wales, not being Aboriginal

habitation, and

(b) which is 50 or more years old.

residential development means development for residential purposes.

restricted premises means any building or place at which:

(a) restricted publications (that is, publications classified as Category 1 restricted, Category 2 restricted or RC under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth) are shown, exhibited, displayed, sold or otherwise rendered accessible or available to the public, or

(b) a business to which section 578E of the *Crimes Act 1900* applies is conducted,

but does not include a newsagency or pharmacy.

sea wall means a structure placed partially or wholly along the land/water interface to protect the land from the sea or to stop accelerated erosion of the shoreline, but does not include a breakwater.

single mooring means an apparatus or structure located on or in the waterway and designed, constructed or used for restraining one vessel only, but does not include a mooring pen.

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 two 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 repair facility or commercial marina.

strategic foreshore site means a site shown edged heavy black on the Strategic Foreshore Sites Map.

street means any street, road, lane, footpath or other thoroughfare open to or used by the public, whether or not in public ownership.

swimming enclosure means a net or other structure placed in the waterway for the purpose of providing a protected swimming area, but does not include a public water recreational facility.

swimming pool has the same meaning as it has in the *Swimming Pools Act 1992*.

Sydney Harbour includes all tidal bays, rivers and their tributaries connected with or leading to Sydney Harbour, and all waters bounded by mean high water mark and lying to the west of a line running between the southernmost point of North Head and the northernmost point of South Head.

Sydney Harbour Catchment means the land shown edged heavy black on the Sydney Harbour Catchment Map.

telecommunications facility means a building, structure, work or place (such as a radio mast, tower, earth station, cable, satellite dish or the like) used specifically for transmitting, receiving or passing on signals, but does not include any such facility used for domestic purposes only.

temporary structure includes:

- (a) a booth, tent or other temporary enclosure, whether or not a part of the booth, tent or enclosure is permanent, and
- (b) a mobile structure.

the Act means the *Environmental Planning and Assessment Act 1979*.

tourist facility means a building or place, such as a hotel or motel, 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,
- but does not include a caravan park.

water-based development means any development carried out wholly below the mean high water mark, and development for any of the following purposes:

- (a) advertisements,
- (b) advertising structures,
- (c) aids to navigation,
- (d) aviation facilities,
- (e) boat lifts,
- (f) charter and tourism boating facilities,
- (g) commercial port facilities,
- (h) dredging,
- (i) flora and fauna enclosures,
- (j) houseboats,
- (k) mooring pens,
- (l) private landing facilities,
- (m) private landing steps,
- (n) private marinas,
- (o) public boardwalks,
- (p) public water transport facilities,
- (q) single moorings,
- (r) skids,

(s) slipways,

(t) swimming enclosures,

but does not include land/water interface development.

water-based restaurant and entertainment facility means a vessel or structure that floats on, or is fixed in, the waterway, that is used as a club or restaurant or for entertainment (on a commercial basis) and that has a direct structural connection between the foreshore and the 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 merely for launching vessels or for providing direct access to a vessel on the waterway.

waterway means such part of the Foreshores and Waterways Area as is within Zone No W1, W2, W3, W4, W5, W6, W7, W8 or 8 (a).

wetlands means natural or non-natural wetlands (including marshes, sedgeland, wet meadows, salt marshes, mudflats, mangroves and seagrasses) that form a shallow water body when inundated (cyclically, intermittently or permanently) with fresh, brackish or salt water.

wetlands protection area means land shown coloured green on the Wetlands Protection Area Map.