



Sydney Harbour Foreshore Authority
**Advertising and Notification
of Planning Applications**
Policy 2007

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1. Introduction

1.1 Citation

This policy is called the Sydney Harbour Foreshore Authority Advertising and Notification of Planning Applications Policy 2007.

1.2 Purpose

Public participation is an essential component of the development process. The purpose of this policy is to ensure that public participation is facilitated in an orderly, inclusive and transparent manner when dealing with development applications and related matters.

The policy also outlines procedures for a number of statutory and non-statutory processes related to the notification of applications, including dealing with submissions lodged on applications.

1.3 Objectives

The objectives of the policy are to:

- identify development applications and modification applications that will be notified and/or advertised and those persons who will be notified;
- outline procedures for the notification and advertising of applications;
- provide an opportunity for public, local government, government agency and non-government organisations to participate in the development application process and invite comment on such applications;
- ensure consistency in the notification and/or advertising of similar applications; and
- facilitate the efficient processing of applications without compromising the opportunity for public participation.

1.4 Area to which this policy applies

This policy applies to all land within the area administered by the Sydney Harbour Foreshore Authority where the Minister for Planning is the consent authority under *State Environmental Planning Policy (Major Projects) 2005*.

1.5 Relationship to other notification provisions

In all cases any advertising provisions of the *Environmental Planning and Assessment Act 1979* (the Act) and the *Environmental Planning and Assessment Regulation 2000* (the Regulation) shall prevail. In other instances this policy complements the provisions of any relevant environmental planning instruments, or Council Development Control Plan where these may apply to land administered by the Sydney Harbour Foreshore Authority.

1.6 Commencement

This policy replaces the Authority's previous "*Policy for the Public Advertising and Notification of Development Applications*", initially approved in December 2003 and updated on March 2005. This policy was endorsed by the Corporate Governance Committee on the 24 October 2007, and commences operation 1 November 2007.

2. Provisions

2.1 What types of development do the advertising and notification provisions apply to?

The advertising and notification provisions apply to all development and modification applications lodged with the Sydney Harbour Foreshore Authority, except for applications that fall into one or more of the following categories: -

- Major Projects
- Integrated Development
- Designated Development
- Advertised Development

The above categories of development have their own requirements for advertising and fees payable under the Act and Regulation, and these will take precedence over any requirements of this policy in all circumstances.

2.2 Categories of Development

This policy identifies development that is required to be either notified only, or development that is required to be advertised. This policy also identifies development that is not required to be advertised or notified.

There are three categories of development as follows: -

- A. Applications not required to be Notified or Advertised** – Development that is unlikely to have an adverse impact on: the environment; the heritage fabric of an existing item; on adjoining properties; or on the use of the public domain.
- B. Notified Applications** - Development that is likely to have no more than minor environmental impact on a local scale.
- C. Advertised Applications** - Development that potentially may have more than local environmental impact or may be of the public interest.

Categories B and C have different consultation requirements as detailed in Part 3 of this policy.

The various types of development as detailed in Schedules 1, 2 and 3 of this policy. In all cases the decision on what category an application is within, and whether the application is advertised or notified shall be made at the discretion of the Planning Assessment Manager based on the anticipated impacts of the proposed development on its environment and, generally in accordance with this policy. This discretion applies even where the policy may specify development is not required to be advertising or notified.

3. Procedures

3.1 Notification Areas

Each notification area is expressed as a minimum and may be increased (not reduced) at the discretion of the assessing officer, considering the nature and the likely impact of the proposal.

- For applications that are notified, all properties within a minimum 25 metre radius measured from the property boundary of the subject site are to be notified. Any properties on the opposite side of the road from the site but outside of the 25m radius will also be notified.
- For applications that are advertised and notified, all properties within a minimum 50 metre radius measured from the property boundary of the subject site are to be notified. Any properties on the opposite side of the road from the site but outside of the 50m radius will also be notified.

3.2 Notified Applications

Applications that are notified only are on exhibition for a minimum period of 14 days but are not advertised. Notification letters are posted or delivered to ensure they are received no later than the commencement of the notification period.

Notification to property owner/occupiers within the notification area will be as per the following requirements:-

- For properties in single ownership a notification letter will be sent to the property owner;
- For multi-occupancy buildings, a notification letter will be sent to: the property owner and the building management (where known); and to occupants within the building by way of a letter box drop to accessible mailboxes.
- For strata units, a notification letter will be sent to: the owner's corporation; and individual owners and occupiers (where known) by way of letter box drop to accessible mailboxes.

3.3 Advertised Applications

Applications that are advertised require an advertising and notification period for a minimum of 30 days. Advertised applications will be notified in the same manner as notified applications in 3.2 above.

In addition applications are advertised by way of a public notice placed in daily metropolitan newspapers. The Sydney Harbour Foreshore Authority is required to advertise as part of the NSW Government Noticeboard in the Sydney Morning Herald and Daily Telegraph on Wednesdays. The notification period commences on the day after the newspaper advertisement.

3.4 Site Notices

Plastic covered A3 sized notices headed "Development Proposal" shall be placed on site for all notified and advertised applications.

For the majority of applications, site notices shall be placed on the main frontage(s) of the site. For development that is not confined to a single site or its impacts are considered precinct wide (e.g. an event) the site notice shall be placed in suitable and prominent locations.

Site notices will be placed at the discretion of the assessing officer taking into account the nature of the application, and the above requirements. All site notices are to be able to be read from a public place.

3.5 Details of Developments

Notification letters, advertisements in newspapers and site notices are to contain a minimum of the following information:-

- The application reference number;
- The address of the land on which the development is proposed to be carried out;
- The name of the applicant;
- A brief description of the proposal that outlines the nature and purpose of the application;
- All locations where the application can be inspected;
- The period during which the application can be inspected and submissions may be made;
- An invitation to make a written submission;
- The Authority's postal address, the name of the assessing officer, including telephone and email contacts; and
- A statement outlining the privacy rights of any person making a submission to the Authority.

3.6 Other Forms of Notification

- Details of notified and/or advertised applications will be placed on the Authority's website no later than the commencement of the exhibition period.
- All notified and advertised applications will be placed on public exhibition at the Sydney Harbour Foreshore Authority's Rocks Office, Foreshore House, 66 Harrington Street, The Rocks.
- All advertised applications will also be placed on public exhibition at the offices of the local council and other locations considered appropriate by the Authority.
- Notified applications may be placed on public exhibition at the offices of the local council where this may be a more convenient location for interested persons to view the relevant documents.
- Under clause 50(5) of the Regulation, The Sydney Harbour Foreshore Authority is required to notify the local council of **ALL** development and modification applications received. Notification to the local council of a received application is completed upon registration of a new application.

4. Submissions

4.1 Submission Period

Unless otherwise stated, the submission period for each development category will be in line with the exhibition period. All notices of an application will refer to the application and accompanying material as being on exhibition for a stated period at Foreshore House, with the closing date for submissions being at the end of the stated period.

If a submission period finishes on a weekend or public holiday, the period is to be extended to the next business day. The period may be increased, if the consent authority considers that a longer period should be given in the circumstances.

During the Christmas and New Year period, generally being from 20 December to 6 January, the submission period for any notified or advertised applications will be extended by an additional two weeks.

At the discretion of the assessing officer an extended period may be given for lodging submissions, or a time for a specific individual to lodge a submission. Any such extension is not required to be advertised or notified in any way.

4.2 Making a Submission

Any person is entitled to make a submission, within the stated submission period, whether or not a notification letter has been forwarded to the person. A submission may object to or support an application. Submissions must be made in writing and delivered to the Authority either personally, by post, facsimile or electronic mail to the address specified in the notification.

Submissions should include the following characteristics:-

- The reasons for objection or support.
- Correspondents may suggest ways in which a proposal might be amended or modified to address their objections.
- Other documents (such as surveys, plans or photographs) may be included in support of a submission.
- Submissions must be in writing, be addressed to the Planning Assessment Manager, clearly indicating the names, addresses of the person(s) making the submission, quote the development application number, and clearly state the address of the property.
- Submissions should include a contact phone number, e-mail or fax number of the person(s) making submissions.

4.3 Acknowledgment of Submissions

All submissions received shall be acknowledged at the end of the notification period. In the case of submissions only providing email contact details, those submissions shall be acknowledged via email. Attempts will be made to acknowledge all submissions but a lack of contact details, or illegible details may result in no acknowledgement.

A submission lodged by or on behalf of several persons, including petitions, will be considered as a single submission and one acknowledgment letter will be provided, usually addressed to the first signatory to the submission or petition.

4.4 Disclosure of Submissions

Submissions are not confidential. Submissions may be accessed by an applicant and any other members of the public, and are usually made freely available for viewing. Issues raised in all submissions will be summarised in the assessment report prepared on the application, which are publicly available documents.

If a person making a submission does not wish to have the content of the submission or their identity revealed, they must explain their reasons why in their submission. If the reasons are considered well founded, details and issues raised within the submission may be paraphrased or summarised and made available only on that basis.

Copies of submissions may still be requested and made available through a Freedom of Information request through the Authority's Corporate Secretary.

4.5 Addressing Submissions

It is at the discretion of the assessing officer whether or not they meet with the authors of submissions, but there is no requirement to do so. All relevant planning issues raised in the submission shall be addressed in the assessment of the application in the assessment report prepared on the application. These will be made publicly available upon request after the determination of the application.

4.6 Post Determination Notification

Following determination of an application, the Sydney Harbour Foreshore Authority will notify the applicant of the determination of an application with the issue of a Notice of Determination (letter) under section 81(1) of the Act, dated and posted within 14 days from the date of determination.

Any persons who made a submission to an application under the Act shall also be notified of the determination within 14 days from the date of determination in accordance with the requirements of clause 102(2) of the Regulation.

In accordance with the requirements of section 81(2) of the Act, the Authority will also notify the local council of all determinations whether or not a submission is made and whether or not the application was advertised or notified.

The Authority also provides notices in the NSW Government Noticeboard in the Sydney Morning Herald and Daily Telegraph of all determinations made on a monthly basis, generally on the second Wednesday of each month.

A copy of every notice of determination will be made available on Authority's website and these can be downloaded as PDF documents. These will be retained on the website for a period of three months after the determination date. Historical determinations will also be available by contacting the Authority and these will be provided by email to any person free of charge.

5. Amendments and Modifications

5.1 Amended Applications

When an application is amended, prior to its determination, the application may be re-advertised or notified (as appropriate in terms of the provisions of this policy) if the amended application is considered likely to result in additional or an increase in environmental impacts.

Amended applications that result in a reduction in the environmental impacts of a development proposal are not required to be re-advertised or re-notified.

If re-notification is to occur for an amended application that was advertised and notified for 30 days then the notification period may be reduced to 14 days at the discretion of the Planning Assessment Manager.

When an application is withdrawn and a subsequent application made the new application will be processed in accordance with the provisions of this policy, as if the previous application had not been made.

5.2 Section 96 Applications

An applicant may apply to modify a development consent through section 96 of the Act. Section 96 applications may be notified or advertised in accordance with the following:-

- Section 96(1) applications will not be advertised or notified.
- Section 96(1A) applications are considered to have minor environmental impact and will not generally be advertised or notified. If an application has the potential for minor impacts on immediately adjoining premises the application may be notified for a period of 14 days, but will not otherwise be advertised.
- Section 96(2) applications will generally be advertised and notified for a period of 30 days in accordance with this policy, however this will also be determined by which category the original proposal is within, and whether the original DA was advertised or notified.

5.3 NSW Land and Environment Court appeals

Modification applications received in respect to determinations made by the NSW Land and Environment Court shall be advertised and notified in accordance with section 96AA of the Act.

6. Other Provisions

6.1 Exempt and Complying

Development classified as 'Exempt' or 'Complying' is not required to be notified or advertised in accordance with this policy.

6.2 Deficient Applications

The Authority reserves the right not to notify and/or advertise development applications that in its opinion are deficient. A deficient development application is one that is indecipherable and/or in no way considers the subject lands planning controls. Deficient applications will generally be rejected and returned to an applicant in accordance with clause 51 of the Regulation, and is deemed not to have been made.

6.3 Crown Security DAs

Crown development applications (and any subsequent modifications) classified as "Protected" due to their sensitive nature may not be notified or advertised under this Policy, unless required under the Act. At pre-lodgement stage the Authority will request that the Crown agency liaise with any affected public or private stakeholders. Evidence of this consultation must be provided upon application.

6.4 Notification of applications for 'major events'

The Sydney Harbour Foreshore Authority acts as the land owner and event manager for precincts with a history for public events and celebration. Many public events are held on a regular or annual basis and the various impacts can usually be anticipated for each event or occasion.

It is considered that the temporary impacts of these events on surrounding stakeholders can be better managed through the event stakeholder consultation process. Evidence of this stakeholder consultation process must be demonstrated upon the submission of any event application endorsed by the Authority.

In these circumstances applications for regular or reoccurring events shall not be required to be notified or advertised. However it may be considered appropriate that new 'major events' that my reoccur in the future be notified on the first occasion.

As a result of the detailed assessment of an application management and operational conditions of consent will still be imposed.

6.5 Interest Groups

Applications determined to have the potential to have impacts on a precinct wide scale, or those of local public interest, shall be notified to the local interest groups, resident groups and relevant public stakeholder organisations where known to the Authority.

6.6 Fees

The fees payable for development applications and applications to modify a development consent under section 96 are prescribed in Part 15 of the Regulation. The Authority charges the maximum fees under the Regulation to ensure that it maximises cost recovery on the processing of these applications.

An additional fee of \$830 is required for all notified development applications, as per clause 252(1)(d) of the Regulation, and an additional fee of \$500 is required for all notified section 96 applications as per clause 258(2) of the Regulation.

Under section 137(1) of the Act and clause 263 of the Regulation, the Authority may require an applicant to cover any incidental costs required to undertake the proper assessment of their application. The applicant will be required to cover all notification and advertisement costs associated with their application.

Therefore a deposit of \$830 is required for all advertised applications with the actual advertising cost, including GST, payable by the applicant. These will be claimed and invoiced by the Authority prior to the determination of the application.

Other fees associated with the availability of information associated with planning applications are identified below.

6.7 Other Fees

In accordance with this policy the Authority provides copies of all advertised and notified applications on its website for downloading. Copies of all determinations are also made available on its website for downloading.

Information is retained on the Authority's website for a period of three months. Historical determinations are also available by contacting the Authority and these will be provided by email free of charge.

This service is in addition to the requirement under clause 264 of the Regulation for a register of all development applications and consents to be maintained. To cover the cost of this service from the date of commencement of this policy, under section 137(1) of the Act and clause 263 of the Regulation all applications are to include the following additional scanning fee:

- All modification applications; DAs involving no building work; and DAs for building work with a value of less than \$100,000 - Fee payable: \$30.00.
- Applications for building work \$100,000 or greater: Fee Payable: \$50.00.

6.8 Amendments to the Sydney Cove Redevelopment Authority (SCRA) Scheme

All DAs requiring an amendment to the SCRA Scheme shall be advertised in accordance with this policy. The application will be advertised and considered concurrently with the application for the SCRA Scheme amendment.

An additional fee of \$5000 is payable for the processing of a SCRA Scheme amendment.

Schedule 1 – Applications not required to be Advertised or Notified

Except as otherwise provided in Schedule 2 or Schedule 3 of the policy, applications for the following need not be advertised or notified, unless in the opinion of the assessing officer the proposal is considered to be potentially of significant environmental impact on surrounding properties.

1. Temporary use of a public place and other land or buildings for a period of up to 2 years, including events in the public domain no longer than 7 days in duration.
2. Installation of a temporary structure, or the erection of a temporary building, proposed to stand for a period of up to 60 days (whether consecutive or not) within any period of 12 months, including the removal or demolition of the structure or building.
3. Landscaping, paving and other works to a public place, including the installation or erection of: artworks, time capsules, bollards, flag poles, tree surrounds, street furniture (including outdoor tables, seats and lights, mail boxes, and telephone kiosks and stands), a pathway, steps and a vehicular access way.
4. Installation or erection of a telecommunications device, including an aerial, antenna, or dish, and associated cabling, providing any equipment is located within an existing building.
5. Installation of a flag pole.
6. The erection of a sign and supporting structure, including a business or building identification sign, way finding signage and signage for approved events, but not flashing or animated signs, and excluding any 'third party' advertising signs.
7. First use of a new building, or a change of use to or within an existing building.
8. Any internal alterations to a building, and new fitouts, including associated partial internal demolition works.
9. Addition of floor space within the existing envelope of an existing building, such as the addition of a mezzanine and infill of voids, provided the floor area of the building is not increased by more than 20%.
10. External alterations and minor additions to a building, including:
 - a) alterations to existing doors and windows;
 - b) additions of new doors and windows up to first floor level;
 - c) alterations to a shop front, including the installation of an automatic teller machine;
 - d) installation of a solar panel or a flue; and
 - e) the installation of new building services, such as air-conditioning equipment, except where this may impact on the amenity of adjacent building occupiers.
11. Demolition of a single storey building that is not listed as a heritage building.
12. Strata subdivisions, of an existing or approved building, and torrens subdivisions where no new lots are created.

Schedule 2 – Notified Applications

Except as otherwise provided in Schedule 3 of the policy, applications for the following will be notified only, unless in the opinion of the assessing officer the proposal is considered to be potentially of significant environmental impact on surrounding properties.

1. Events and temporary structures except those provided for in Schedule 1, and except as provided by clause 6.4 of this policy.
2. Reconfiguration or new works to the public domain, including: the erection of new single storey kiosks, toilets, sheds and other storage structures; and works involving a change of natural ground level of no more than 1 metre.
3. The removal of any tree, except as provided for under the Authority's Tree Policy, such as noxious plants, dead trees or trees which pose immediate risk to persons or property.
4. Changes of use for a whole buildings three storeys and greater.
5. Convenience stores, restaurants, cafes, including footway cafes and mobile vending carts, and other uses of high patronage, except those to be approved as Place of Public Entertainment, and those seeking to trade or extend trading beyond 12.00 midnight.
6. Child care centres, community centres, schools, higher education institutions.
7. Any flashing signs and other illuminated signs which may affect/impact adjoining buildings/occupiers but excluding any 'third party' advertising signs.
8. Installation of new and changes to existing building services, such as air-conditioning equipment where this may impact on the amenity of adjacent building occupiers.
9. The installation or erection of a telecommunications device or associated equipment, or mast or above a building parapet or roofline, on the site of a heritage item or within a heritage or conservation area.
(Note the provisions of the Commonwealth *Telecommunications Act 1997*).
10. Additions and alterations to any building involving no more than two storeys or an increase in floor space of no more than 20%, including new windows and doors above first floor level, the erection of an awning or a canopy; and new upper level decks and balconies.
11. The demolition or partial demolition of a building two storeys or greater in height, excluding any heritage item or structure and structures which are integral to the use of the public domain, e.g. wharves and jetties.
12. Subdivisions for the creation of an easement or right of way which may impact on the amenity of adjoining properties

Schedule 3 – Advertised Applications

Applications for the following will be advertised in accordance with this policy.

1. The creation of new, or the major redevelopment and additions to existing areas of public domain, including the erection of any building over single storey in height or the change in natural ground level of more than 1 metre.
2. Changes of use or intensification of use within a building, which may have significant environmental, social or cultural impact, including the following: -
 - a) Licensed premises (hotels and pubs, night clubs, bars);
 - b) Places of Public Entertainment, including functions centres and places of public worship;
 - c) Backpacker accommodation, hostels and boarding houses;
 - d) Premises seeking to trade or extend trading beyond 12.00 midnight, except for temporary uses; and
 - e) Brothels, sex industry and restricted premises.
3. Any 'third party' advertising signage, including rooftop signs and billboards. (Note additional advertising requirements for 'third party' advertising signs are specified in State Environmental Planning Policy No. 64.)
4. Additions to existing buildings that involve two or more storeys or an increase in floor space greater than 20%.
5. New buildings, except temporary buildings otherwise provided for in Schedule 1.
6. The whole or partial demolition of any heritage item, any building over two storeys in height, and structures which are integral to the use of the public domain, e.g. wharves and jetties.
7. Subdivision involving the creation of new torrens lots.