



New South Wales

Sydney Regional Environmental Plan No 24—Homebush Bay Area (Amendment No 2)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following regional environmental plan under the *Environmental Planning and Assessment Act 1979*. (P92/00812/PC)

ANDREW REFSHAUGE, M.P.,

Minister for Planning

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Clause 1 Sydney Regional Environmental Plan No 24—Homebush Bay Area
(Amendment No 2)

Sydney Regional Environmental Plan No 24—Homebush Bay Area (Amendment No 2)

1 Name of plan

This plan is *Sydney Regional Environmental Plan No 24—Homebush Bay Area (Amendment No 2)*.

2 Aims of plan

This plan aims:

- (a) to update the provisions of *Sydney Regional Environmental Plan No 24—Homebush Bay Area*:
 - (i) to reflect the progress of planning and development that has occurred since that plan was made, and
 - (ii) as a consequence of certain administrative and legislative changes, and
- (b) to promote the orderly and economic use of certain land to which this plan applies by allowing, with development consent, development for certain specified purposes in the localities known as the Newington Village and the Newington Business Park, and
- (c) to introduce provisions for exempt and complying development, and
- (d) to revise heritage conservation policies and processes to reflect a more detailed understanding of heritage significance within the Homebush Bay Area, and
- (e) to introduce provisions for the preparation of master plans that will enable more detailed planning of precincts, and
- (f) to extend the ambit of the controls imposed by *Sydney Regional Environmental Plan No 22—Parramatta River* on the carrying out of development involving the remediation of land to include the foreshores of Homebush Bay and part of that Bay adjoining those foreshores, and
- (g) to make consequential amendments to *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development*.

3 Land to which plan applies

This plan applies to land to which *Sydney Regional Environmental Plan No 24—Homebush Bay Area* applies and, in relation to the aim set out in clause 2 (f), to certain land to which *Sydney Regional Environmental Plan No 22—Parramatta River* applies.

4 Amendment of Sydney Regional Environmental Plan No 24—Homebush Bay Area

Sydney Regional Environmental Plan No 24—Homebush Bay Area is amended as set out in Schedule 1.

5 Amendment of Sydney Regional Environmental Plan No 22—Parramatta River

Sydney Regional Environmental Plan No 22—Parramatta River is amended as set out in Schedule 2.

6 Amendment of State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development

State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development is amended as set out in Schedule 3.

7 Transitional provision

A development application in relation to land to which this plan applies that is lodged, but not finally determined, before the date on which this plan commences is to be determined as if this plan had not been made.

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(Clause 4)

[1] Clause 3 Aims of this plan

Omit paragraphs (f) and (g). Insert instead:

- (f) to facilitate the development and management of Sydney Olympic Park by the Sydney Olympic Park Authority based on:
 - (i) master plans (whether adopted by the Minister under this Plan or approved by the Minister under section 18 of the *Sydney Olympic Park Authority Act 2001*), and
 - (ii) other guidelines and management strategies adopted by the Sydney Olympic Park Authority for the management of Sydney Olympic Park, and
- (g) to identify exempt and complying development, and
- (h) to provide for public consultation in the planning and development of the Homebush Bay Area.

[2] Clause 4 Relationship to other environmental planning instruments

Omit “except State Environmental Planning Policy No. 4—Development Without Consent and State Environmental Planning Policy No. 38—Olympic Games and Related Projects” from clause 4 (1).

Insert instead “except the following:

State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No 60—Exempt and Complying Development”.

[3] Clause 4 (1A)

Omit the subclause.

[4] Clause 6 Definitions

Omit “Concord” from clause 6 (2). Insert instead “Canada Bay”.

[5] Clause 9 General requirement for development consent

Insert “or Schedule 9” after “Schedule 3”.

[6] Clauses 9A and 9B

Insert after clause 9:

9A Exempt development

- (1) Development is exempt development for the purposes of this plan:
 - (a) in the case of development carried out on land shown uncoloured on the map marked “Sydney Regional Environmental Plan No 24—Homebush Bay Area—Amendment No 2—Map 4”, if it is exempt development for the purposes of *State Environmental Planning Policy No 60—Exempt and Complying Development*,
 - (b) in the case of development carried out on land coloured light pink on the map marked “Sydney Regional Environmental Plan No 24—Homebush Bay Area—Amendment No 2—Map 4”, if:
 - (i) it is described in Schedule 9, and
 - (ii) it meets the standards for development contained in Schedule 9 (including the standards referred to as “prescribed criteria”), and
 - (iii) it complies with the requirements of subclause (2).

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- (2) Development referred to in subclause (1) (b) complies with the requirements of this subclause if:
- (a) the development is of minimal environmental impact, and
 - (b) the development complies with any deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and
 - (c) the development complies with any relevant Australian Standard, and
 - (d) the development is not located on land that is critical habitat (within the meaning of the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
 - (e) the development is not located on land that is identified as primary habitat for the Green and Golden Bell Frog in the *SOPA Frog Management Plan*, and
 - (f) the development does not encroach upon any easement or right of way unless agreed to in writing by the person or authority in whose favour the easement exists, and
 - (g) the development does not contravene any conditions of a development consent currently operating on the land, and
 - (h) the development is not likely to result in the disturbance of more than one tonne of soil, or to lower the water table, on land on which acid sulfate soils are present, and
 - (i) if it relates to land the subject of a declaration under section 21 of the *Contaminated Land Management Act 1997*, the development complies with the terms of an agreement under section 26 of that Act for the remediation of that land, and
 - (j) if it is located within 3 metres of a public water or sewer main, the development complies with any requirements of the Sydney Water Corporation, and

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- (k) if it relates to an existing building, the development is not such that would require changes to the existing fire safety measures, and
 - (l) the development has been endorsed by the Sydney Olympic Park Authority:
 - (i) as being structurally sound, and
 - (ii) as meeting the requirements of paragraphs (a)–(k), and
 - (iii) as meeting the standards for development contained in Schedule 9 (including the standards referred to as “prescribed criteria”).
 - (3) Development meets the standards referred to in Schedule 9 as “prescribed criteria” if:
 - (a) the development is consistent with any relevant master plan, and
 - (b) the development is consistent with any guidelines and management strategies adopted by the Sydney Olympic Park Authority, and
 - (c) the development is consistent with any plan of management for the Millennium Parklands adopted by the Sydney Olympic Park Authority, and
 - (d) in the case of development that affects any land or building that is, or is part of, an item of environmental heritage or an item listed on the State Heritage Register under the *Heritage Act 1977*:
 - (i) a heritage conservation management plan or conservation management master plan has been endorsed by the Heritage Council in respect of the land or building, and
 - (ii) the development is consistent with that plan, and
 - (e) the development is consistent with the *SOPA Frog Management Plan*.

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9B Complying development

- (1) Development is complying development for the purposes of this plan:
 - (a) if it satisfies the requirements for complying development that may be carried out in metropolitan Sydney pursuant to *State Environmental Planning Policy No 60—Exempt and Complying Development*, and
 - (b) if it complies with the requirements of subclause (2), but is not complying development if it is exempt development pursuant to clause 9A (1) (b).
- (2) Development complies with the requirements of this subclause if:
 - (a) the development is consistent with any relevant master plan, and
 - (b) the development is consistent with any guidelines and management strategies adopted by the Sydney Olympic Park Authority, and
 - (c) the development is consistent with any plan of management for the Millennium Parklands adopted by the Sydney Olympic Park Authority, and
 - (d) in the case of development that affects any land or building that is, or is part of, an item of environmental heritage or an item listed on the State Heritage Register under the *Heritage Act 1977*:
 - (i) a heritage conservation management plan or conservation management master plan has been endorsed by the Heritage Council in respect of the land or building, and
 - (ii) the development is consistent with that plan, and
 - (e) the development is consistent with the *SOPA Frog Management Plan*.

[7] Clause 10 Consent authorities

Omit “Maritime Services Board” from clause 10 (3).
Insert instead “Minister for Transport”.

[8] Clause 10 (4)–(7)

Omit the subclauses.

[9] Clause 11 Permissible uses

Insert at the end of the clause:

- (2) The following development may be carried out, but only with development consent, on land shown coloured and described as “Residential”, “Village Centre” or “High Tech Business Park” on the Homebush Bay Area Map:
 - (a) subdivision, or
 - (b) development for the purposes of a building, work, place or land use specified in Schedule 8 in relation to the land concerned.
- (3) In Schedule 8:
 - (a) terms used in that Schedule that are defined in the *Environmental Planning and Assessment Model Provisions 1980* have the same meanings as they have in those model provisions, and
 - (b) ***solar generating work*** means a device that captures solar energy for use on a site or for transferral to an electricity grid.

[10] Clause 12 Planning objectives

Insert “, and Sydney Olympic Park in particular,” after “Homebush Bay Area” in clause 12 (a), (c) and (e) wherever occurring.

[11] Clause 12 (b)

Insert “in Sydney Olympic Park” after “woodlands”.

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[12] Clause 12 (i)

Insert “public” after “enhance”.

[13] Clause 13 Matters for consideration in determining development applications

Omit “referred to in section 90”.

Insert instead “required to be considered by section 79C”.

[14] Clause 13 (a)

Omit “structure plan”. Insert instead “relevant master plan”.

[15] Clause 13 (b)

Omit “and guidelines for development”.

[16] Clause 13 (b1)

Insert after clause 13 (b):

- (b1) to the extent to which it applies to land within Sydney Olympic Park, the *Environmental Guidelines* within the meaning of the *Sydney Olympic Park Authority Act 2001* and any plan of management referred to in section 34 of that Act,

[17] Clause 13 (c1)

Insert after clause 13 (c):

- (c1) the impact of the development on significant views,

[18] Clause 13 (i)

Insert at the end of clause 13 (h):

- (i) the issues listed in Schedule 7.

[19] Clause 14 Consultation with other public bodies

Omit clause 14 (1) (a) and (b). Insert instead:

- (a) the Sydney Olympic Park Authority in relation to development applications:
 - (i) that are on or immediately adjoin land vested in that Authority, or
 - (ii) that are on land having a site area of 10,000 square metres or more or that have a proposed floor space of 20,000 square metres or more, or
 - (iii) that, in the opinion of the consent authority, are likely to have a significant impact on land vested in that Authority,
- (b) the council of the local government area in which it is proposed the development will be carried out (if it is not the consent authority),
- (b1) the council of each local government area adjoining the local government area in which it is proposed the development will be carried out if, in the opinion of the consent authority, the development proposed could have a significant impact on that local government area,

[20] Clause 14 (1) (c)

Omit “Parramatta River”.

[21] Clause 14 (1) (d)

Omit “the Director of Planning, if”.

Insert instead “the Director-General, if the consent authority is a council and”.

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[22] **Clauses 16, 16A and 16B**

Omit clause 16. Insert instead:

16 Master plans

- (1) Development consent must not be granted for development on land edged red on the map marked “Sydney Regional Environmental Plan No 24—Homebush Bay Area—Amendment No 2—Map 4” unless:
 - (a) there is a master plan for the subject land, and
 - (b) the consent authority has taken the master plan into consideration, and
 - (c) the development is consistent with the master plan, except as provided by this clause.
- (2) The Minister may waive compliance with the requirements of this clause because of the minor nature of the development concerned, the adequacy of the planning controls that apply to the proposed development or for such other reason as the Minister considers sufficient.
- (3) This clause does not apply to minor development specified in Schedule 10.

16A Preparation, adoption and amendment of master plans

- (1) A draft master plan for the land referred to in clause 16, or any part of that land, may be prepared by or on behalf of the owner or lessee of the land concerned or the Director-General.
- (2) A draft master plan prepared by an owner or lessee should be prepared following consultation with the Director-General and is to illustrate and explain, where appropriate in relation to the land, 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,

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- (d) pedestrian, cycle and road access and circulation networks,
 - (e) parking provision,
 - (f) subdivision pattern,
 - (g) infrastructure provision,
 - (h) building envelopes and built form controls,
 - (i) heritage conservation, implementing the guidelines set out in any applicable conservation policy, and protection of archaeological relics,
 - (j) remediation of the site,
 - (k) provision of public facilities,
 - (l) provision of open space, its function and landscaping,
 - (m) the protection of the environment, in particular as regards such part of the site as is or forms part of:
 - (i) a reserve under the *National Parks and Wildlife Act 1974*, or
 - (ii) an aquatic reserve or critical habitat under Part 7 or 7A of the *Fisheries Management Act 1994*, or
 - (iii) critical habitat under the *Threatened Species Conservation Act 1995*, or
 - (iv) an item of the environmental heritage or conservation area (however described) under any environmental planning instrument, or
 - (v) a heritage item under the *Heritage Act 1977*,
 - (n) any other matter specified by the Director-General.
- (3) To the extent to which it applies to land within Sydney Olympic Park, a draft master plan must be consistent with the plan of management for the Millennium Parklands under Division 3 of Part 4 of the *Sydney Olympic Park Authority Act 2001*.

Note. To each master plan prepared for Sydney Olympic Park under this clause, subclause (3) extends a requirement that applies to a master plan prepared for Sydney Olympic Park under section 18 of the *Sydney Olympic Park Authority Act 2001*.

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- (4) If a draft master plan is prepared by or on behalf of the Director-General, the Director-General is required to consult with the owner or lessee of the land concerned.
 - (5) A draft master plan must be submitted to the Minister for adoption.
 - (6) 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.
 - (7) When submitted to the Minister:
 - (a) the draft master plan is to be advertised in a newspaper circulating throughout the State and in the locality and is to be exhibited for not less than 21 days for public comment, and
 - (b) copies of the draft master plan are to be given to each council whose local government area includes the land to which the plan applies or any other land that, in the opinion of the Director-General, is likely to be affected by the proposals contained in the plan.
 - (8) In considering a draft master plan, the Minister:
 - (a) must take into account:
 - (i) any written submissions made about the content of the draft master plan during the exhibition period, and
 - (ii) the views of the relevant council, and
 - (b) to the extent to which it applies to land within Sydney Olympic Park, must consider whether the plan is consistent with the *Environmental Guidelines* within the meaning of the *Sydney Olympic Park Authority Act 2001*.
- Note.** To each master plan prepared for Sydney Olympic Park under this clause, subclause (8) (b) extends a requirement that applies to a master plan prepared for Sydney Olympic Park under section 18 of the *Sydney Olympic Park Authority Act 2001*.
- (9) A draft master plan becomes a master plan if it is adopted by the Minister.

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- (10) When a master plan is adopted, the Director-General must advertise the adoption of the master plan in a newspaper circulating in the locality.
 - (11) A master plan may be amended by a master plan.
 - (12) An amendment to a master plan may be dealt with concurrently with a development application.
 - (13) A copy of each master plan must be available for inspection free of charge at the head office, and the Sydney Region West office, of the Department.

16B Master plans under section 18 of Sydney Olympic Park Authority Act 2001

- (1) This clause applies to a master plan prepared under section 18 of the *Sydney Olympic Park Authority Act 2001*.
- (2) When submitted to the Minister for approval, as referred to in section 18 (4) of the *Sydney Olympic Park Authority Act 2001*:
 - (a) the draft master plan is to be advertised in a newspaper circulating throughout the State and in the locality and is to be exhibited for not less than 21 days for public comment, and
 - (b) copies of the draft master plan are to be given to each council whose local government area includes the land to which the plan applies or any other land that, in the opinion of the Director-General, is likely to be affected by the proposals contained in the plan.
- (3) The Minister must take into account:
 - (a) any written submissions made about the content of the draft master plan during the exhibition period, and
 - (b) the views of the relevant council.
- (4) A master plan that has been approved by the Minister, as referred to in section 18 (4) of the *Sydney Olympic Park Authority Act 2001* has the same effect as a master plan adopted by the Minister under clause 16A if, and only if, it complies with the requirements of clause 16A (2).

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- (5) The document prepared by the Sydney Olympic Park Authority, entitled *Draft Sydney Olympic Park Post-Olympic Master Plan* and dated January 2002 is taken to be a draft master plan submitted to the Minister under subclause (2).

[23] Clause 17 Master plans and development control plans—availability

Omit “structure plan”. Insert instead “master plan”.

[24] Clause 17 (b)

Omit “Olympic Co-ordination Authority”.
Insert instead “Sydney Olympic Park Authority”.

[25] Clause 20A

Insert after clause 20:

20A Acid sulfate soils

- (1) Despite clause 35 of, and Schedule 1 to, the *Environmental Planning and Assessment Model Provisions 1980* adopted by this plan, development (not being exempt development or complying development) that is likely to result in the disturbance of more than one tonne of soil, or to lower the water table, on land on which acid sulfate soils are present may be carried out only with development consent.
- (2) Before granting a consent required by this clause, the consent authority must consider:
 - (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with 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, and
 - (b) the likelihood of the proposed development resulting in the discharge of acid waters, and

- (c) any comments received from the Department of Land and Water Conservation within 21 days of the consent authority having sent that Department a copy of the development application and of the related acid sulfate soils management plan.
- (3) Consent for development referred to in this clause is required despite clause 10 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development*.

[26] Clause 21 Development of major public facilities

Omit clause 21 (a)–(c). Insert instead:

- (a) must ensure that the development proposal has been dealt with in accordance with section 79A of the Act as advertised development, and

[27] Clause 22 Development in environmental conservation areas

Omit clause 22 (5) (a)–(d). Insert instead:

- (a) must ensure that the development proposal has been dealt with in accordance with section 79A of the Act as advertised development, and
- (b) may refuse to grant the application unless, in the opinion of the consent authority, the issues listed in Schedule 7 of relevance to the proposed development have been adequately addressed, and
- (c) must take into account:
 - (i) the recommendations of the *Millennium Parklands Concept Plan* prepared by Hassell Pty Ltd and dated December 1997, a copy of which is available for inspection at the head office, and the Sydney Region West office, of the Department, and
 - (ii) the development consent (reference number S/38/3/98) granted by the Minister in relation to the development of the Millennium Parklands, and

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- (d) must consider whether the development is consistent with:
 - (i) the *SOPA Frog Management Plan*, and
 - (ii) any relevant master plan, and
 - (iii) to the extent to which it applies to land within Sydney Olympic Park, any plan of management adopted by the Sydney Olympic Park Authority in accordance with the *Sydney Olympic Park Authority Act 2001*.

[28] Clause 23

Omit the clause. Insert instead:

23 Development near an environmental conservation area

In considering an application for consent to the carrying out of development within 30 metres (or, in the case of the North Newington woodland area, 200 metres) of an environmental conservation area, the consent authority:

- (a) must take into account:
 - (i) the effect of the proposed development on the environmental conservation area, and
 - (ii) the recommendations of the *Millennium Parklands Concept Plan* prepared by Hassell Pty Ltd and dated December 1997, a copy of which is available for inspection at the head office, and the Sydney Region West office, of the Department, and
 - (iii) the development consent (reference number S/38/3/98) granted by the Minister in relation to the development of the Millennium Parklands, and
- (b) must consider whether the development is consistent with:
 - (i) the *SOPA Frog Management Plan*, and
 - (ii) any relevant master plan, and

- (iii) to the extent to which it applies to land within Sydney Olympic Park, any plan of management adopted by the Sydney Olympic Park Authority in accordance with the *Sydney Olympic Park Authority Act 2001*.

[29] Clauses 24–30

Omit clauses 24–28. Insert instead:

24 Protection of heritage items and heritage conservation areas

(1) When is consent required?

The following development may be carried out only with development consent:

- (a) demolishing or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area by making structural or non-structural changes to its exterior, such as to its detail, fabric, finish or appearance,
- (c) altering a heritage item by making structural changes to its interior,
- (d) disturbing or excavating a place of Aboriginal heritage significance or an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) moving the whole or a part of a heritage item,
- (f) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.

(2) What exceptions are there?

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

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- or of a building, work, archaeological site, tree or place within a heritage conservation area, and
 - (ii) the proposed development would not adversely affect the significance of the heritage item or heritage conservation 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.
 - (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) **What must be included in assessing a development application?**
Before granting a consent 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 or heritage conservation area concerned.
 - (5) **What extra documentation is needed?**
The assessment must include consideration of a *heritage impact statement* that addresses at least the issues set out in subclause (6) (but is not to be limited to assessment of those issues, if the heritage significance concerned involves other issues). The consent authority may also decline to grant such a consent until it has considered a *conservation management plan*, if it considers the development proposed should be assessed with regard to such a plan.

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- (6) The minimum number of issues that must be addressed by the heritage impact statement are:
- (a) for development that would affect a ***heritage item***:
 - (i) the heritage significance of the item as part of the environmental heritage of the Homebush Bay Area, and
 - (ii) 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
 - (iii) the measures proposed to conserve the heritage significance of the item and its setting, and
 - (iv) whether any archaeological site or potential historical archaeological site would be adversely affected by the proposed development, and
 - (v) the extent to which the carrying out of the proposed development would affect the form of any historic subdivision, and
 - (b) for development that would be carried out in a ***heritage conservation area***:
 - (i) the heritage significance of the heritage conservation area and the contribution which any building, work, relic, tree or place affected by the proposed development makes to this heritage significance, and
 - (ii) the impact that the proposed development would have on the heritage significance of the heritage conservation area, and
 - (iii) the compatibility of any proposed development with nearby original buildings and the character of the heritage conservation area, taking into account the size, form, scale, orientation, setbacks, materials and detailing of the proposed development, and
 - (iv) the measures proposed to conserve the significance of the heritage conservation area and its setting, and

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- (v) whether any landscape or horticultural features would be affected by the proposed development, and
- (vi) whether any archaeological site or potential historical archaeological site would be affected by the proposed development, and
- (vii) the extent to which the carrying out of the proposed development in accordance with the consent would affect any historic subdivision pattern, and
- (viii) the issues raised by any submission received in relation to the proposed development in response to the notification or advertising of the application.

25 Advertised development

Development is advertised development if it comprises or includes the demolition of a heritage item or a building, work, tree or place in a heritage conservation area.

26 Notice of demolition to Heritage Council

Before granting consent for the demolition of a heritage item identified in Schedule 5 as being of State significance, the consent authority must notify the Heritage Council about the application and take into consideration any comments received in response within 28 days after the notice is sent.

27 Development affecting places or sites of known or potential Aboriginal heritage significance

Before granting 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 must:

- (a) consider a heritage impact statement explaining how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site, and

- (b) except where the proposed development is integrated development, notify the local Aboriginal communities (in such way as it thinks appropriate) and the Director-General of National Parks and Wildlife of its intention to do so and take into consideration any comments received in response within 28 days after the relevant notice is sent.

28 Development affecting known or potential historical archaeological sites of relics of non-Aboriginal heritage significance

- (1) Before granting consent for development that will be carried out on an archaeological site or a potential historical 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 must:
 - (a) 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) 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) This clause does not apply if the proposed development:
 - (a) does not involve disturbance of below-ground deposits and 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) is integrated development.

29 Development in the vicinity of a heritage item

- (1) Before granting 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 and of any heritage conservation area within which it is situated.

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- (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 or of any heritage conservation area within which it is situated.
- (3) The consent authority may refuse to grant any such 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.

30 Development in heritage conservation areas

- (1) Before granting consent for the erection of a building within a heritage conservation area, the consent authority must be satisfied that the features of the proposed building will be compatible with the heritage significance of the heritage conservation area, having regard to the form of, and materials used in, buildings that contribute to the heritage significance of the heritage conservation area.
- (2) In satisfying itself about those features, the consent authority must have regard to at least the following (but is not to be limited to having regard to those features):
 - (a) the pitch and form of the roof (if any),
 - (b) the style, size, proportion and position of the openings for windows or doors (if any),
 - (c) the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building,

(d) the landscaped area of the site.

[30] Schedule 2 Definitions

Omit the definitions of *Aboriginal relic*, *conservation plan*, *demolition*, *guidelines for development*, *heritage conservation area*, *heritage item*, *heritage significance*, *Homebush Bay Area Map*, *Homebush Bay Conservation Study*, *maintenance*, *potential historical archaeological site*, *relic*, *statement of environmental effects* and *structure plan*.

[31] Schedule 2

Insert the following definitions in alphabetical order:

archaeological site means the site of one or more relics.

conservation management plan means a document prepared in accordance with the requirements of the NSW Heritage Office that establishes the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

demolish a heritage item, or a building, work, archaeological site, tree or place within a heritage conservation area, means to wholly or partly destroy, dismantle or deface the heritage item or the building, work, archaeological site, tree or place.

heritage conservation area means an area of land that is described in Schedule 4 and shown in a distinctive manner on the map marked “Homebush Bay Area—Heritage and Conservation Areas Map” and includes buildings, works, archaeological sites, trees and places and situated on or within the land.

heritage impact statement means a document consisting of a statement demonstrating the heritage significance of a heritage item or heritage conservation area, or of a building, work, archaeological site, tree or place within a heritage conservation area, an assessment of the impact that proposed development will have on that significance and proposals for measures to minimise that impact.

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heritage item means a building, work, archaeological site or place specified in Schedule 5 and identified as a heritage item in a distinctive manner on the map marked “Homebush Bay Area—Heritage and Conservation Areas Map”.

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

Homebush Bay Area Map means the map marked “Homebush Bay Area Map”, as amended by the maps (or specified sheets of the maps) marked as follows:

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maintenance means the ongoing protective care of a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area. It does not include alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

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. It can (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. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

potential historical archaeological site means a site:

- (a) that is specified in Schedule 6 and identified as such in a distinctive manner on the map marked “Homebush Bay Area—Heritage and Conservation Areas Map”, or
- (b) that, in the opinion of the consent authority, has the potential to be an historical archaeological site, even if it is not so specified.

potential place of Aboriginal heritage significance means a place that, in the opinion of the consent authority, has the potential to have Aboriginal heritage significance.

relic means:

- (a) any deposit, object or material evidence (which may consist of human remains) that is more than 50 years old relating to the use or settlement, not being Aboriginal habitation, of the Homebush Bay Area and that is a fixture or is wholly or partly within the ground, or
- (b) any deposit, object or material evidence (which may consist of human remains) of any age relating to Aboriginal habitation of the Homebush Bay Area.

SOPA Frog Management Plan means the document published by the Sydney Olympic Park Authority under the title *SOPA Frog Management Plan—Frog Management Plan for the Green and Golden Bell Frog*, as in force from time to time, copies of which are available for inspection at the offices of the Sydney Olympic Park Authority.

Sydney Olympic Park means the land described in Schedule 1 to the *Sydney Olympic Park Authority Act 2001*.

Sydney Olympic Park Authority means the Sydney Olympic Park Authority constituted by the *Sydney Olympic Park Authority Act 2001*.

[32] Schedule 2, definition of “ecological plan of management”

Omit “Olympic Co-ordination Authority”.

Insert instead “Sydney Olympic Park Authority”.

[33] Schedule 2, definition of “environmental conservation area”

Omit “edged heavy black”. Insert instead “in a distinctive manner”.

[34] Schedule 2, definition of “Heritage Items Site Identification Manual”

Omit “of Planning”.

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[35] Schedule 2, definition of “major public facilities”

Insert “, not including roads,” after “facilities”.

[36] Schedule 2, definition of “water based development”

Omit paragraph (f). Insert instead:

- (f) dredging (except for dredging associated with
remediation of land),

[37] Schedule 3 Development that does not require consent

Omit the matter relating to the storage of fill and landscaping in the third
and fourth paragraphs of the Schedule.

[38] Schedule 4 Heritage conservation areas

Omit the matter under the heading “**State Abattoirs heritage conservation
area (Area No. 1)**”.

Insert instead:

The area bounded by Herb Elliott Avenue, Showground Road,
Dawn Fraser Avenue and the Railway Garden, containing the
Avenue of Palms, administration building precinct and
landscaped gardens.

[39] Schedule 4

Omit the matter relating to Newington Armament Depot heritage
conservation areas (Areas Nos 2 and 3).

[40] Schedule 5 Heritage items

Omit all items under the heading “**State Abattoir locality**”. Insert instead:

- Item 1 The Vernon Buildings, the Maiden Gardens and the Railway
Garden within the Historic Abattoir Administration Precinct,
bounded by Herb Elliott Avenue, Showground Road, Dawn
Fraser Avenue and the Railway Garden.
- Item 2 The Avenue of Palms.

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[41] Schedule 5

Omit the matter relating to Newington Armament Depot locality.

Insert instead:

Millennium Parklands Heritage Precinct

Item A The collection of buildings, structures, relics and landforms constructed by the Royal Australian Navy as an armaments depot during the 19th and 20th centuries, together with the rare river edge wetlands and the Cumberland Plain woodland area, to the extent to which they are:

- (a) situated on land identified on the map marked “Sydney Regional Environmental Plan No 24—Homebush Bay Area—Amendment No 2—Map 3”, and
- (b) described in the document entitled *Millennium Parklands Heritage Precinct Conservation Master Plan 2001*, prepared by Graham Brooks and Associates, copies of which are available for inspection at the head office, and the Sydney Region West office, of the Department.

Other

Item 87 Explosives Store

[42] Schedule 6 Potential historical archaeological sites

Omit the matter relating to State Abattoirs site (Site No 1).

[43] Schedule 7 Issues to be addressed in statements of environmental effects

Omit “arising from the matters referred to in section 90” from Parts 1 and 2, wherever occurring.

Insert instead “required to be considered by section 79C”.

[44] Schedule 7, Parts 1 and 2

Omit “Olympic Co-ordination Authority”, wherever occurring.

Insert instead “Sydney Olympic Park Authority”.

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[45] Schedules 8, 9 and 10

Insert after Schedule 7:

Schedule 8 Newington Village and High Tech Business Park

(Clause 11)

Residential

Child care centres
Community uses
Dwelling-houses
Educational establishments
General stores
Home occupations
Places of assembly

Places of public worship
Professional consulting rooms
Public utility undertakings
Recreation facilities
Refreshment rooms
Residential flat buildings
Solar generating works

Village Centre

Advertisements
Advertising structures
Child care centres
Clubs
Commercial premises
Educational establishments
General stores
Hotels
Motels
Places of assembly

Places of public worship
Public buildings
Public utility undertakings
Recreation facilities
Refreshment rooms
Shops
Service stations
Solar generating works
Taverns

High Tech Business Park

Advertisements
Advertising structures
Child care centres
Clubs
Commercial premises
Educational establishments
General stores
Hotels
Light industries
Motels

Motor showrooms
Places of assembly
Places of public worship
Public utility undertakings
Recreation facilities
Refreshment rooms
Service stations
Solar generating works
Utility installations
Warehouses

Schedule 9 Exempt development

(Clause 9A (1) (b))

Type of development**Criteria**

Minor landscaping and installation of fittings in the public domain of Sydney Olympic Park (which includes, but is not limited to, Overflow Park, Olympic Boulevard, Olympic Plaza, Fig Grove, Yulang, Haslam's Pier, Homebush Common, Millennium Parklands, the RAS Showgrounds and Bicentennial Park), including paving, gardening, planting, bus shelters, park and street furniture, access ramps for people with disabilities, shade structures, awnings, playground and recreational equipment, fences and gates, flagpoles, cycle and pedestrian paths, cycle storage racks/areas, public art and the like

Being undertaken by or on behalf of the Sydney Olympic Park Authority for the provision, management and maintenance of Sydney Olympic Park and which complies with the prescribed criteria

Temporary uses, buildings and structures (being for a period of two months or less) associated with festivals, minor events, markets, carnivals, outdoor cinemas, interactive video screens, street performers, entertainment, information booths, merchandising, food and beverage outlets, trade shows, exhibitions, public meetings and the like

Complies with the prescribed criteria

Signage for the purposes of event promotions, and directional and identification signage, but not the provision of advertising signage and advertising billboards (other than real estate signs less than 4.5 square metres in area erected on land or premises that are being advertised for sale or lease)

Complies with the prescribed criteria

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Type of development	Criteria
Subdivision	Involving boundary adjustments which do not create new lots and are generally consistent with an adopted master plan, or involving the creation of new lots in line with a development consent for development of land
Development affecting existing buildings and structures within the Millennium Parklands, including Bicentennial Park, for the purposes of cultural, educational and recreational activities.	Being undertaken by or on behalf of the Sydney Olympic Park Authority for the provision and management of Sydney Olympic Park and which complies with the prescribed criteria
Use for a kind of commercial premises (including premises used for warehousing or high-technology industry) as a result of change of use from a different kind of commercial premises, or use for a kind of retail premises as a result of change of use from a different kind of retail premises	Does not change the classification of the building under the <i>Building Code of Australia</i> and complies with the prescribed criteria
Minor building alterations and additions to existing sports, exhibition and entertainment facilities and venues	Complies with the prescribed criteria and does not change the dominant use of, nor add more than 100m ² to the external envelope of, the building or structure
Minor building alterations and additions to and uses of items of environmental heritage provided that the development does not impact on the heritage significance of the building, structure or landscape	Complies with the prescribed criteria
Amenities, facilities and support infrastructure for existing sports facilities, public domain and exhibition and entertainment venues, such as but not limited to utility installations, mobile telecommunication facilities, traffic management and maintenance road works, visitor information booths, walls, fences, kiosks, solar panels and solar panel structures, flagpoles, exterior lighting	Complies with the prescribed criteria

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Schedule 1

Type of development	Criteria
(including street lighting, lighting of trees, public art, building and landscape features, and themed lighting for events and festivals, but does not include installation of permanent outdoor lighting for stadia or outdoor venues), access ramps for people with disabilities, toilet facilities, bollards, outdoor cafes, drinking fountains/bubblers, public art	
Internal alterations to existing sports facilities, entertainment and exhibition venues, retail and commercial premises (including premises used for warehousing or high-technology industry), including fitout works and partitions	Does not change the use of the building or structure (other than ancillary and incidental uses) and does not add more than 100m ² of floorspace
Non-structural alterations to the exterior of existing buildings and structures (other than items of environmental heritage), such as minor facade alterations, facade repairs and maintenance, painting, plastering, cement rendering, attaching fittings and decorative works	Complies with the prescribed criteria
Minor maintenance, repairs, painting, excavation, and restoration works to items of environmental heritage	As described within the standard exemptions gazetted on 23 October 1998 (under section 57 (2) of the <i>Heritage Act 1977</i>)
Demolition of sheds, kiosks, roof structures, fencing, flagpoles, advertising structures, lighting and the like, internal walls, ceilings, stairs, ducts and any other development which is exempt development	Complies with the prescribed criteria
Emergency services equipment including replacement or augmentation of fire systems, pumphouses, fire water tanks, scaffolding, other than where it affects fabric on items of environmental heritage	Complies with the prescribed criteria

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Type of development

Criteria

Storage of landfill by the Sydney Olympic Park Authority on land vested in it, other than land in or within 30 metres of the environmental conservation area comprising wetlands, woodlands and grasslands shown on the map marked “Sydney Regional Environmental Plan No 24—Homebush Bay Area—Amendment No 2—Map 2”

Complies with the prescribed criteria and uses only fill material that originates from within Sydney Olympic Park

Schedule 10 Minor development

(Clause 16 (3))

1 Change of use

A change of use of an existing building if the change of use does not involve any increase of the total floor space of the building.

2 Outdoor seating

The provision and use of outdoor seating or tables or any item of street or public domain furniture (including benches, bicycle racks, bins, bollards, information signs, public artwork installations, street lights, telephone kiosks, tree surrounds and water bubblers) on a footpath, or in a plaza or other public place.

3 Signage

The erection of a sign on a building, if the sign does not exceed 2.5 square metres in area and is located so that no part of the sign extends above the ridge line of the building.

4 Enclosure of balconies

The enclosure of a balcony.

5 Temporary uses

A temporary use for 2 years or less (not being a temporary use described in item 6) if the temporary use will have only minimal environmental impact of short duration.

6 Temporary structures

The use of public domain for any temporary structure or event, including the exhibition of an art work, a performance, a festival or special promotion, if the proposed structure or event is to be installed for, or to take place over, a period of not more than 30 days, whether consecutive or not, in any period of 12 months.

7 Strata subdivision of existing buildings and works

Any strata or stratum subdivision of land for the purposes of a development for which development consent has been granted and is in force.

8 Demolition

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.

9 Commercial or retail fitouts

The carrying out of any internal commercial or retail fitout.

10 Trading hours

Any extension or other variation of operating or trading hours.

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Schedule 2 Amendment of Sydney Regional Environmental Plan No 22—Parramatta
River

**Schedule 2 Amendment of Sydney Regional
Environmental Plan No 22—Parramatta
River**

(Clause 5)

[1] Clause 3 Land to which plan applies

Omit clause 3 (2). Insert instead:

- (2) This plan (clause 28A (2) excepted) does not apply to land within the Homebush Bay Area within the meaning of *Sydney Regional Environmental Plan No 24—Homebush Bay Area*.

[2] Clause 8 Consent authority

Omit “of Planning” from clause 8 (2) and (3) wherever occurring.

[3] Clause 28A Certain development near Homebush Bay Area

Insert “or comprising the foreshore or otherwise in the vicinity of Homebush Bay” after “Homebush Bay Area” in clause 28A (2).

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Amendment of State Environmental Planning Policy No 4—Development
Without Consent and Miscellaneous Complying Development

Schedule 3

Schedule 3 Amendment of State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development

(Clause 6)

[1] Clause 11 Certain development by public authorities

Omit “Sheet 1 of the map marked ‘Sydney Regional Environmental Plan No 24—Homebush Bay Development Area’” from clause 11 (2).

Insert instead “Map 1 of the maps marked ‘Sydney Regional Environmental Plan No 24—Homebush Bay Area—Amendment No 2’”.

[2] Schedule 1 Ancillary or incidental development involving acid sulfate soils excepted from clause 10

Insert before the matter relating to *Sydney Regional Environmental Plan No 28—Parramatta*:

Clause 20A of *Sydney Regional Environmental Plan No 24—Homebush Bay Area*

BY AUTHORITY