



New South Wales

Mosman Local Environmental Plan 1998 (Amendment No 9)— Acid Sulfate Soils and Wetlands

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979. (S01/01208/S69)

ANDREW REFSHAUGE, M.P.,

Minister for Planning

2002 No 517

Clause 1 Mosman Local Environmental Plan 1998 (Amendment No 9)—Acid Sulfate Soils and Wetlands

Mosman Local Environmental Plan 1998 (Amendment No 9)—Acid Sulfate Soils and Wetlands

1 Name of plan

This plan is *Mosman Local Environmental Plan 1998 (Amendment No 9)—Acid Sulfate Soils and Wetlands*.

2 Aims of plan

This plan aims:

- (a) to update a reference to a development control plan that has been amended, and
- (b) to avoid any potential environmental hazard in relation to acid sulfate soils, and
- (c) to protect wetland areas from inappropriate development in and around wetland areas, and
- (d) to provide planning controls and procedures to prevent or regulate, or prevent and regulate, development that has the potential to disturb acid sulfate soils or to have an environmental impact on wetland areas.

3 Land to which plan applies

- (1) To the extent that this plan deals with exempt and complying development and acid sulfate soil, it applies to all land in the Mosman local government area.
- (2) To the extent that this plan deals with wetlands and the foreshore protection map, it applies to land within the Mosman local government area identified on the maps marked “Mosman Local Environmental Plan 1998—Foreshore Protection Map” and “Wetlands”, deposited in the office of Mosman Municipal Council.

4 Amendment of Mosman Local Environmental Plan 1998

Mosman Local Environmental Plan 1998 is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 4)

[1] Clause 10A What is exempt and complying development?

Insert “and amended on 12 February 2002” after “1999” wherever occurring in clause 10A (1)–(3).

[2] Clause 31A

Insert after clause 31:

31A Acid sulfate soils

- (1) The objectives of this clause are:
 - (a) to minimize disturbance to acid sulfate soils in Mosman so as to avoid any potential environmental hazard, and
 - (b) to require development consent for works that would disturb soils or ground water levels in localities identified as having acid sulfate soils, and
 - (c) to require the special assessment of certain development of land identified as being subject to risks associated with the disturbance of acid sulfate soils.
- (2) A person must not, without the consent of the Council, carry out the following works on or under land identified on the foreshore protection map:
 - (a) as being within an acid sulfate soil area—works beyond 1 metre below the existing ground surface or involving the disturbance of more than 1 tonne of soil (such as occurs in carrying out the construction or maintenance of drains, dredging, the construction of artificial waterbodies including detention basins, the construction of underground structures including basement carparks, the construction of foundations or flood mitigation works) or both, or
 - (b) as being within a buffer area—works involving excavation below 1m AHD, or

2002 No 517

Mosman Local Environmental Plan 1998 (Amendment No 9)—Acid Sulfate Soils and Wetlands

Schedule 1 Amendments

- (c) in relation to any land identified on the foreshore protection map—works that are likely to lower the ground water table, regardless of how much soil is to be disturbed.
- (3) Despite subclause (2), development consent is not required for the carrying out of such works 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 Council, and
 - (b) the Council has provided written advice to the person proposing to carry out the works confirming that the results of the preliminary assessment indicate that 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 Council must not grant a consent required by this clause unless the Council 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 of Land and Water Conservation within 40 days of the Council having sent that Department a copy of the development application and of the related acid sulfate soils management plan.
- (5) This clause requires consent for development to be carried out by a public authority, despite clause 10 (1) (a). However, despite subclause (2) of this clause, consent is not required for a public authority to carry out development for the purposes of:
 - (a) emergency work, or
 - (b) routine maintenance, or
 - (c) minor excavation work.

- (6) Despite subclause (2), the following development may be carried out by the Council without development consent:
 - (a) the installation of stormwater quality improvement devices and drainage works, and
 - (b) any work ancillary to that development, such as the construction of accessways, the provision of power, water and sewerage supplies, and landscape works.
- (7) If the Council carries out work referred to in subclause (6) and is reasonably likely to encounter acid sulfate soils in carrying out that work, the Council:
 - (a) must conduct a preliminary assessment of the proposed works in accordance with the *Acid Sulfate Soils Assessment Guidelines* so as to minimise the actual or potential impact to the environment arising from the disturbance of the soils, and
 - (b) must implement reasonable measures to minimise that impact.

31B Wetlands

- (1) The objectives of this clause are:
 - (a) to protect Mosman’s wetlands from inappropriate development by preventing or regulating, or preventing and regulating, development that has the potential to fragment, pollute, disturb or diminish the value of the wetlands, and
 - (b) to protect, restore and maintain ecological processes, natural systems and biodiversity within the wetlands, and
 - (c) to improve, maintain and restore the quality of water within the wetlands and water entering the wetlands so as to ensure that wetland values and natural ecological functions are not diminished.
- (2) This clause applies to land within the Mosman local government area identified as “Wetlands” or “Wetlands buffer” on the map marked “Wetlands” drawn by SPH in May 2001.

2002 No 517

Mosman Local Environmental Plan 1998 (Amendment No 9)—Acid Sulfate Soils and Wetlands

Schedule 1 Amendments

- (3) The Council must not consent to the carrying out of works on land to which this clause applies that have the potential to fragment, pollute, disturb or diminish wetland values, unless the Council:
 - (a) has made an assessment of the predicted environmental impacts of the proposed works and proposed measures for mitigation, and
 - (b) has considered the relevant objectives and requirements of:
 - (i) *Sydney Regional Environmental Plan No 23—Sydney and Middle Harbours*, and
 - (ii) any relevant policies and guidelines published from time to time by NSW Fisheries.
- (4) If, after making an assessment, the Council considers the proposed development will have either a direct or indirect adverse impact on land to which this clause applies identified as wetland areas or wetland buffer areas, the Council may refuse to consent to the proposed development.
- (5) Despite subclauses (3) and (4), the following development may be carried out by the Council without development consent:
 - (a) the installation of stormwater quality improvement devices and drainage works, or
 - (b) any work ancillary to that development, such as the carrying out of minor excavation work, the construction of accessways, the provision of power, water and sewerage supplies, and landscape works.
- (6) If the Council plans to carry out work referred to in subclause (5), the Council:
 - (a) must have regard to the predicted environmental impact of the work on land to which this clause applies identified as wetland areas, and
 - (b) must implement reasonable measures for mitigation of that impact, such as suitable erosion and sediment controls.
- (7) The requirements imposed by this clause apply to development to be carried out by a public authority, despite clause 10 (1) (a).

However, the requirements do not apply to a public authority carrying out development for the purposes of:

- (a) emergency work, or
- (b) routine maintenance, or
- (c) minor excavation work.

[3] Schedule 1 Definitions

Insert in alphabetical order:

acid sulfate soils means actual acid sulfate soils and 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* published by the NSW Acid Sulfate Soils Management Advisory Committee and adopted for the time being by the Director-General.

actual acid sulfate soils means soils:

- (a) containing highly acidic soil horizons or layers resulting from the aeration of soil materials that are rich in iron sulfides, and
- (b) the soil material of which has a pH of 4 or less when measured in dry season conditions.

emergency work means the repair or replacement of any part of existing public works due to damage by natural disaster, accident, vandalism or malfunction, and includes work reasonably necessary to prevent or limit any further damage or malfunction.

minor excavation work means new work carried out by a public authority that does not disturb soil more than one metre below the existing ground level, such as the provision of surface irrigation for landscaping.

potential acid sulfate soils means soils:

- (a) that are waterlogged and contain iron sulfides or sulfidic material that has not been exposed to air and oxidised, and
- (b) that have a pH of 4 or more, and

2002 No 517

Mosman Local Environmental Plan 1998 (Amendment No 9)—Acid Sulfate Soils and Wetlands

Schedule 1 Amendments

- (c) that will become severely acidic when exposed to air and oxidised.

routine maintenance means the periodic inspection, cleaning, repair and replacement of existing public works, but does not include work that would result in an increase in the design capacity of any part of the works or necessitate the deepening of any existing works below the existing ground level.

stormwater quality improvement device means a device designed to capture pollutants.

water table means the level below which the ground is saturated.

[4] Schedule 1, definition of “foreshore protection map”

Omit the definition. Insert instead:

foreshore protection map means the map marked “Mosman Local Environmental Plan 1998 (Amendment No 9)—Foreshore Protection Map”, as amended by the maps, or sheets of maps, marked as follows:

BY AUTHORITY