



New South Wales

Botany Local Environmental Plan 1995 (Amendment No 24)

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S00/01780/S69)

DIANE BEAMER, MP.,

Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)

2003 No 551

Clause 1 Botany Local Environmental Plan 1995 (Amendment No 24)

Botany Local Environmental Plan 1995 (Amendment No 24)

1 Name of plan

This plan is *Botany Local Environmental Plan 1995 (Amendment No 24)*.

2 Aims of plan

This plan aims:

- (a) to provide environmental planning controls that will result in the management of any disturbance to acid sulfate soils in the Botany local government area so as to minimise impacts on the natural environment and urban and infrastructure activities, and
- (b) to require development consent for works that would disturb soils or groundwater levels in localities identified as having acid sulfate soils, and
- (c) to require special assessment of certain development of land identified as being subject to risks associated with the disturbance of acid sulfate soils.

3 Land to which plan applies

This plan applies to land within the Botany local government area identified on the map marked “Botany Local Environmental Plan 1995 (Amendment No 24)—Acid Sulfate Soil Planning Map” deposited in the office of the Council of the City of Botany Bay.

4 Amendment of Botany Local Environmental Plan 1995

This plan amends:

- (a) *Botany Local Environmental Plan 1995* as set out in Schedule 1, and
- (b) *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development* by inserting at the end of Schedule 1 to that Policy:
Clause 30A of *Botany Local Environmental Plan 1995*

Schedule 1 Amendments

(Clause 4 (a))

[1] Clause 30A

Insert after clause 30:

30A Development of land identified on Acid Sulfate Soil Planning Map

(1) **Consent usually required**

A person must not, without the consent of the Council, carry out any of the following works within the area edged heavy black on the Acid Sulfate Soil Planning Map:

- (a) works involving the disturbance of soil below the groundwater table (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 car parks, foundations, or flood mitigation works), or
- (b) works that are likely to lower the groundwater table, or
- (c) works involving the disturbance of sediments within Botany Bay.

(2) **Exception following preliminary assessment**

This clause does not require consent for the carrying out of those 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 those works confirming that results of the preliminary assessment indicate the proposed works need not be carried out pursuant to an acid sulfate soils management plan prepared in accordance with the *Acid Sulfate Soils Assessment Guidelines*.

(3) **Considerations for consent authority**

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Schedule 1 Amendments

The Council must not grant a consent required by this clause unless it has considered:

- (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the *Acid Sulfate Soils Assessment Guidelines*, and
- (b) the likelihood of the proposed development resulting in the discharge of acid water, and
- (c) any comments received from the Department of Land and Water Conservation within 21 days of the Council having sent that Department a copy of the development application and of the related acid sulfate soils management plan.

(4) **Council not excepted**

This clause requires consent for development to be carried out by the Council despite clause 35 of, and items 2 and 11 of Schedule 1 to, the *Environmental Planning and Assessment Model Provisions 1980*, as adopted by this plan.

(5) **Special provisions for Council**

Despite subclause (4), the following development may be carried out without development consent by the Council:

- (a) development consisting of emergency work,
- (b) development consisting of routine maintenance,
- (c) development consisting of minor work,

and any development ancillary to such development.

- (6) If the Council carries out development described in subclause (5) and encounters, or is reasonably likely to encounter, acid sulfate soils, the Council must deal with those soils in accordance with the *Acid Sulfate Soils Assessment Guidelines* so as to minimise the actual or potential impact on the environment arising from the development.

(7) In this clause:

emergency work means the repair or replacement of any part of the Council's works:

- (a) because it has been (or is being) damaged by a natural disaster, an accident, an act of vandalism or a like occurrence, or
- (b) because it has ceased to function or suddenly ceased to function adequately,

and includes work reasonably necessary to prevent or limit any further damage or malfunction.

minor work means new work carried out by the Council, but not drainage work, that has a value not greater than \$20,000.

routine maintenance means the periodic inspection, cleaning, repair and replacement of the Council's works, but does not include work that would result in an increase in the design capacity of any part of those works or necessitate the deepening of the capacity of existing works, except where works do not involve the disturbance of soil below the groundwater table.

[2] Schedule 1 Definitions

Insert in alphabetical order:

Acid Sulfate Soil Planning Map means the map marked "Botany Local Environmental Plan 1995 (Amendment No 24)—Acid Sulfate Soil Planning Map" deposited in the office of the Council.

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

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