



# Botany Local Environmental Plan 1995 (Amendment No 24)

under the

Environmental Planning and Assessment Act 1979

## Erratum

Botany Local Environmental Plan 1995 (Amendment No 24) published in Gazette No 126 of 15.8.2003 (Extract No 2003—551) was published in error. The following corrects that error.

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, M.P.,

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

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

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# Botany Local Environmental Plan 1995 (Amendment No 24)

under the

Environmental Planning and Assessment Act 1979

### 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 City of Botany Bay so as to minimise impacts on natural waterbodies and wetlands and on agricultural, fishing, aquaculture, 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 on 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 City of Botany Bay classified as Class 1, 2, 4 or 5 on the map marked “Botany Local Environmental Plan 1995 (Amendment No 24)” deposited in the office of the Council of the City of Botany Bay.

### 4 Relationship to other environmental planning instruments

This plan amends:

- (a) *Botany Local Environmental Plan 1995* as set out in Schedule 1, and

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- (b) *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* as set out in Schedule 2.

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Schedule 1 Amendment of Botany Local Environmental Plan 1995

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**Schedule 1 Amendment of Botany Local Environmental Plan 1995**

(Clause 4 (a))

**[1] Clause 30A**

Insert after clause 30:

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

**(1) Consent is required**

A person must not, without the consent of the Council, carry out works described in the following Table on land of the class specified for those works, except as provided by subclause (3).

**Table**

<b>Class of land as shown on Acid Sulfate Soil Planning Map</b>	<b>Works</b>
1	Any works
2	Works below the ground surface Works by which the watertable is likely to be lowered
4	Works below 2m AHD Works by which the watertable is likely to be lowered beyond 2 metres AHD
5	Works within 500 metres of adjacent Class 1, 2 or 4 land which are likely to lower the watertable below 1 metre AHD on adjacent Class 1, 2 or 4 land

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- (2) For the purposes of the Table to subclause (1), **works** include:
- (a) any disturbance of more than one tonne of soil (such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial waterbodies (including canals, dams and detention basins) or foundations, or flood mitigation works or urban development (such as the construction of basement carparks, building foundations, installation of utilities and site drainage)), and
  - (b) any other works that are likely to lower the watertable, such as the temporary or permanent use of pumps to lower the natural groundwater level within or around a site, or the construction or maintenance of drains.

(3) **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 ASS Manual.

(4) **Considerations for consent authority**

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 ASS Manual, and
- (b) the likelihood of the proposed development resulting in the discharge of acid water, and

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- (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) **Public authorities not excepted**

This clause requires consent for development to be carried out by councils and other public authorities despite:

- (a) 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, and
- (b) clause 10 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*.

(6) **Special provisions for the Council and Sydney Water Corporation**

Despite subclauses (1)–(5), the Council or the Sydney Water Corporation may carry out the following development without consent:

- (a) development consisting of emergency work,
- (b) development consisting of routine maintenance,
- (c) development consisting of minor work,
- (d) any work ancillary to such development.

- (7) If the Council or the Sydney Water Corporation carries out development described in subclause (6) and encounters, or is reasonably likely to encounter, acid sulfate soils, the Council must deal with those soils in accordance with the ASS Manual so as to minimise the actual or potential impact on the environment arising from disturbance of the soils.

- (8) In this clause:

***emergency work*** means the repair or replacement of any part of the Council or the Sydney Water Corporation's works:

- (a) because the works have been (or are being) damaged by a natural disaster, an accident, an act of vandalism or a like occurrence, or

(b) because they have 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 or the Sydney Water Corporation that has a value not greater than \$20,000, but does not include drainage work.

*routine maintenance* means the periodic inspection, cleaning, repair and replacement of the Council's or Sydney Water Corporation'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 an existing works capacity, except where works do not involve the disturbance of soil below the ground watertable.

## [2] Schedule 1 Definitions

Insert the following definitions in alphabetical order in Schedule 1:

*acid sulfate soil planning map* means the map marked "Botany Local Environmental Plan 1995 (Amendment No 24)" kept in the office of the Council.

*acid sulfate soils* means actual or potential acid sulfate soils, as defined in the ASS Manual.

*Acid Sulfate Soils Assessment Guidelines* means the *Acid Sulfate Soils Assessment Guidelines* in the ASS Manual.

*ASS Manual* means the document titled *Acid Sulfate Soil Manual* published by the Acid Sulfate Soils Management Advisory Committee, as adopted for the time being by the Director-General.

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Schedule 2      Amendment of State Environmental Planning Policy No 4—Development  
Without Consent and Miscellaneous Exempt and Complying Development

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**Schedule 2    Amendment of State Environmental  
Planning Policy No 4—Development  
Without Consent and Miscellaneous  
Exempt and Complying Development**

(Clause 4 (b))

**Schedule 1 Ancillary or incidental development involving acid  
sulfate soils excepted from clause 10**

Insert at the end of Schedule 1:

Clause 30A of *Botany Local Environmental Plan 1995*

BY AUTHORITY

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