



New South Wales

Richmond River Local Environmental Plan 1992 (Amendment No 22)

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*. (G96/00219/S69)

DIANE BEAMER, M.P.,

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

2004 No 541

Clause 1 Richmond River Local Environmental Plan 1992 (Amendment No 22)

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1 Name of plan

This plan is *Richmond River Local Environmental Plan 1992 (Amendment No 22)*.

2 Aims of plan

The aims of this plan are:

- (a) to exempt, in certain circumstances, the sugar industry from the development consent requirements of the provisions of clause 18A (Development on land containing acid sulfate soils) of *Richmond River Local Environmental Plan 1992*, and
- (b) also to exempt from those development consent requirements the carrying out of works on land that has been lawfully filled, but only in respect of works that do not extend beneath the fill, and
- (c) as a matter of housekeeping, to relocate from clause 5 (Interpretation) to the acid sulfate soils provisions (clause 18A) definitions that are specific to those provisions.

3 Land to which plan applies

This plan applies to the land shown as being within Class 1, 2, 3, 4 or 5, or identified as a Major Drain, on any of the 12 maps marked "Richmond River Local Environmental Plan 1992 (Amendment No 22) Acid Sulfate Soils Planning Map" held in the office of Richmond Valley Council.

4 Amendment of Richmond River Local Environmental Plan 1992

Richmond River Local Environmental Plan 1992 is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 4)

[1] Clause 5 Interpretation

Omit the definitions of *ACID SULFATE SOILS ASSESSMENT GUIDELINES*, *ACID SULFATE SOILS PLANNING MAP*, *ACTUAL ACID SULFATE SOILS*, *AGRICULTURAL-RELATED WORKS*, *EXISTING DRAINS*, *FLOOD MITIGATION WORKS*, *MAINTENANCE OF EXISTING DRAINS*, *POTENTIAL ACID SULFATE SOILS*, and *WORKS THAT MAY ALTER GROUNDWATER LEVELS* from clause 5 (1).

[2] Clause 18A Development on land containing acid sulfate soils

Omit “subclause (4)” from clause 18A (2).

Insert instead “subclauses (4), (4A), (4B) and (7)”.

[3] Clause 18A (3A)

Insert after clause 18A (3):

(3A) Exception for filled land

This clause does not require consent for the carrying out of works on land that has been lawfully filled if the proposed works will not extend beneath the fill.

[4] Clause 18A (4A)–(4D)

Insert after clause 18A (4):

(4A) Exception for cane land

This clause does not require consent for the carrying out of works for the purpose of agriculture (including drains, land levelling, dams, road works and the like) if:

- (a) a production area entitlement is in force in respect of the land concerned at the time of carrying out the works, and
- (b) the works are carried out in accordance with a drainage management plan lodged with and endorsed by the NSW Sugar Milling Co-operative or the Council, and
- (c) a drainage management plan for the land has been prepared in accordance with the Sugar Industry Best Practice Guidelines, and

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- (d) the works are not carried out in respect of any major drains identified on the Acid Sulfate Soil Planning Map or on any land:
 - (i) within Zone No 7 (a) Environmental Protection (Wetlands), or
 - (ii) within Zone No 7 (c) Environmental Protection (Flora and Fauna), or
 - (iii) to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies, and
- (e) the Council has not served a notice on the person carrying out or using the works, or published a notice in a newspaper circulating in the locality of the works, requiring that the carrying out or use of the works cease or that development consent be obtained prior to the carrying out or further use of the works.

(4B) Audit of drainage management plans

An annual audit of drainage management plans and of the works to which subclause (4A) relates is to be carried out by the NSW Sugar Milling Co-operative to a standard satisfactory to the Council.

- (4C) Immediately after the audit required by subclause (4B) has been carried out, the NSW Sugar Milling Co-operative is to provide Council with a copy of the results of the audit.
- (4D) The Council may issue a notice of the kind referred to in subclause (4A) (e), relating to any one or more of those works, if either of the requirements contained within subclauses (4B) or (4C) is not complied with.

[5] Clause 18A (6)

Omit “River Shire”. Insert instead “Valley”.

[6] Clause 18A (10)

Insert the following definitions in alphabetical order:

ACID SULFATE SOILS ASSESSMENT GUIDELINES
means the *Acid Sulfate Soils Assessment Guidelines* as published from time to time by the NSW Acid Sulfate Soils Management Advisory Committee (ASSMAC) and adopted by the Director-General.

ACID SULFATE SOILS PLANNING MAP means the series of sheets of the map marked “Richmond Valley Local Environmental Plan 1992 (Amendment No 22) Acid Sulfate Soils Planning Map”.

ACTUAL ACID SULFATE SOILS are soils containing highly acidic soil horizons or layers resulting from the aeration of soil materials that are rich in iron sulfides, primarily sulfide. This oxidation produces hydrogen ions in excess of the sediment’s capacity to neutralise the acidity resulting in soils of pH of 4 or less when measured in dry season conditions.

AGRICULTURAL-RELATED WORKS means any farming or land management activities which will materially alter the shape or natural form of the land or which are likely to alter groundwater levels. They include the following:

- (a) drainage works,
- (b) construction and maintenance of open drains,
- (c) excavation works,
- (d) extractive industries or mining,
- (e) construction of dams, stock water holes, aquaculture ponds and the like,
- (f) site levelling,
- (g) flood mitigation works, including construction of levees,
- (h) topsoil removal and turf farming,
- (i) laying of pipes, cables, conduits and the like,
- (j) dewatering of wetlands, dams and the like.

DRAINAGE MANAGEMENT PLAN means a plan that provides information on:

- (a) the depth, location and nature of acid sulfate soils on the land, and
- (b) the location and dimensions of existing, new and redesigned drains on the land, and
- (c) the nature of any earth moving activities such as laser levelling, construction or enlargement of dams, or the like,

and documents the necessary management practices to avoid or minimise an acid hazard.

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EXISTING DRAIN means a drain lawfully constructed prior to 20 June 1998 (being the first date during the public exhibition of the draft of *Richmond River Local Environmental Plan 1992 (Amendment No 5)*).

FLOOD MITIGATION WORKS means structural measures intended to reduce flood damage by either reducing flood levels or the lateral extent of flooding and includes any of the following:

- (a) levees,
- (b) flood mitigation drains,
- (c) retarding or detention basins,
- (d) bypass floodways,
- (e) flood gates on drains,
- (f) channel improvement.

MAINTENANCE OF EXISTING DRAINS refers to any works that will disturb or remove soil within existing drains.

NSW SUGAR MILLING CO-OPERATIVE means the New South Wales Sugar Milling Co-operative Limited (ACN 051 052 209).

POTENTIAL ACID SULFATE SOILS are soils that contain iron sulfides or sulfidic material which have not been exposed to air. They will become severely acid when exposed to air and oxidised. The field pH of these soils in their undisturbed state is pH 4 or more and may be neutral or slightly alkaline.

PRODUCTION AREA ENTITLEMENT means a contractual arrangement, between the NSW Sugar Milling Co-operative and a grower member of that Co-operative, for the production of sugar cane for milling.

SUGAR INDUSTRY BEST PRACTICE GUIDELINES means guidelines adopted by Council and approved by the Director-General of the Department of Infrastructure, Planning and Natural Resources in consultation with the NSW Acid Sulfate Soils Management Advisory Committee (ASSMAC) and the Director-General of the Department of Agriculture.

WORKS THAT MAY ALTER GROUNDWATER LEVELS
means drainage works, ground water bores, wells, ground dewatering, or the like on or adjacent to land containing acid sulfate soils which may lower the groundwater level in the general area.