



## **Botany Local Environmental Plan 1995 (Amendment No 4)**

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*. (R96/00052/S69)

DIANE BEAMER, M.P.,

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

## 2004 No 873

Clause 1 Botany Local Environmental Plan 1995 (Amendment No 4)

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## Botany Local Environmental Plan 1995 (Amendment No 4)

under the

Environmental Planning and Assessment Act 1979

### 1 Name of plan

This plan is *Botany Local Environmental Plan 1995 (Amendment No 4)*.

### 2 Aims of plan

The aims of this plan are:

- (a) to rezone land currently zoned under the *County of Cumberland Planning Scheme Ordinance*, and
- (b) to provide for the protection of wetlands and associated wetland vegetation, threatened species and endangered ecological communities within the City of Botany Bay through the introduction of a new open space zone which permits continued use of the land for existing recreational purposes, and
- (c) to make additional uses permissible on certain land zoned for open space purposes under *Botany Local Environmental Plan 1995*, and
- (d) to repeal two interim development orders concerning land at Daceyville and Wentworth Avenue, Pagewood.

### 3 Land to which this plan applies

This plan applies to the following land:

- (a) the Lakes Golf Course, Eastlakes Golf Course, Bonnie Doon Golf Course, Mutch Park, Astrolabe Park and adjoining land, Mill Pond abutting Wentworth Avenue—those properties being known as Lot 1, DP 780392 (proposed lot 3 in subdivision), Lots 5 and 6, DP 780391, Lot 1, DP 780392, Lots 4 and 13, DP 87663 (part Auto Consol 8627-193) and Certificate of Title and folio identifier references 2825/752015, 2473/52015, 1/1039418, 2/1039419, 2871/752015, 2870/752015, 3881/752015, 3882/752015, 1/1039419,

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2/1039419, 1/241650, 2/854374 and 2/830181, as shown edged heavy black on Sheet A of the map marked “Botany Local Environmental Plan 1995 (Amendment No 4)”,

- (b) the Sydney Water Depot at Gardeners Road, Eastlakes, known as Lot 1, DP 780392 (proposed Lot 2 in subdivision), as shown edged heavy black on Sheet B of the map marked “Botany Local Environmental Plan 1995 (Amendment No 4)”,
- (c) the Gardens R Us Nursery at Gardeners Road, Eastlakes, being Lot 1, DP 780392 (proposed Lot 1 in subdivision).

**4 Amendment of Botany Local Environmental Plan 1995**

*Botany Local Environmental Plan 1995* is amended as set out in Schedule 1.

**5 Amendment of County of Cumberland Planning Scheme Ordinance**

*County of Cumberland Planning Scheme Ordinance* is amended as set out in Schedule 2.

**6 Repeals**

The following instruments are repealed:

- (a) *Interim Development Order No 4—Municipality of Botany*,
- (b) *Interim Development Order No 17—Municipality of Botany*.

**2004 No 873**

Botany Local Environmental Plan 1995 (Amendment No 4)

Schedule 1 Amendment of Botany Local Environmental Plan 1995

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

(Clause 4)

**[1] Clause 5 The objectives of this plan**

Insert at the end of clause 5 (6) (i):

, and

- (j) to identify and conserve wetlands and their associated riparian vegetation, threatened species and endangered ecological communities within the City of Botany Bay, and
- (k) to promote the restoration of degraded habitats, the protection of aquatic, riparian and terrestrial habitats and the retention of natural hydrological and geomorphological regimes.

**[2] Clause 5 (9) (d) and (e)**

Insert at the end of clause 5 (9) (c):

, and

- (d) to permit development that is compatible with the conservation of biological diversity, the protection of the Botany Sands Aquifer and surface water quality, and
- (e) to improve water quality and promote ecologically sustainable development and ecologically sustainable water and land management practices.

**[3] Clause 6 Adoption of the Environmental Planning and Assessment Model Provisions 1980**

Insert “*retail plant nursery*,” and “, *utility installation*” in alphabetical order.

**[4] Clause 9 Zones indicated on the map**

Insert in appropriate order:

Zone No 6 (c) Open Space—Recreation—Restricted—edged heavy black and lettered “6 (c)”,

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**[5] Clause 10 Zone objectives and development control table**

Insert “or for utility undertakings” after “arterial roads” where secondly occurring in item 1 of the matter relating to Zone No 5 (a) (Special Uses) in the Table to the clause.

**[6] Clause 10, Table**

Insert in appropriate order:

**Zone No 6 (c) Open Space—Recreation—Restricted**

**1 Objectives of zone**

The primary objective is to permit open space and recreational land uses while protecting nearby wetlands and their associated riparian vegetation, threatened species and endangered ecological communities.

The secondary objectives are:

- (a) to ensure that open space is managed in accordance with ecologically sustainable land management practices, and
- (b) to enable development that will not destroy, damage or compromise the ecological, scientific or scenic values of wetlands and their associated riparian vegetation, threatened species and endangered ecological communities, and
- (c) to conserve and enhance the wetlands and associated riparian zones, and
- (d) to provide for an aesthetic and recreational landscape, and
- (e) to ensure development will not have a detrimental impact on the Botany Sands Aquifer and surface water quality.

**2 Development which may be carried out without development consent**

Development for the purpose of:

Environmental educational projects; environmental restoration works (in accordance with an environmental management plan adopted by Sydney Water Corporation); utility undertakings.

Exempt development.

**3 Development which may be carried out only with development consent**

Development for the purpose of:

Building identification signs; business identification signs; landscaping works; recreation areas; roads; utility installations.  
Demolition.

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Botany Local Environmental Plan 1995 (Amendment No 4)

Schedule 1 Amendment of Botany Local Environmental Plan 1995

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### 4 Development which is prohibited

Any development other than development included in item 2 or 3.

### [7] Clause 18AA

Insert after clause 18:

#### 18AA Environmental analysis

The Council must not grant consent to the carrying out of development on land within Zone No 6 (c) unless the Council has had regard to an environmental analysis of the proposed development.

### [8] Schedule 1 Definitions

Insert in alphabetical order:

*endangered ecological community* has the same meaning as in the Act.

*environmental analysis* means a site-specific assessment that identifies, in the context of an environmental management plan adopted by Sydney Water Corporation, the potential environmental impacts and aspects of proposed restoration works, and which includes (without limitation):

- (a) a description of the work activities, and
- (b) the potential impacts of the work activities, and
- (c) the proposed control measures or management procedures to minimise potential impacts, and
- (d) the impact on, and proposed control of, stormwater on the adjoining wetlands, and
- (e) a monitoring and inspection program, and
- (f) statements of responsibility for all contractors and subcontractors.

*environmental educational project* means an activity, managed by a public authority, that promotes educational or scientific study of the wetlands or associated riparian vegetation and ecological community without a significant impact on the aquatic, riparian or terrestrial habitats, such as controlled public tours, the stream watch program and other non-destructive research activities.

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***environmental restoration works*** means works that are carried out to restore or enhance the natural value of wetlands and that do not have a significant impact on the aquatic, riparian or terrestrial environment, and includes:

- (a) carp control, and
- (b) works to restore or enhance:
  - (i) plant communities, or
  - (ii) water levels, or
  - (iii) water flow, or
  - (iv) soil composition.

***restaurant*** means a building or place the principal purpose of which is the provision of food to paying customers for consumption on the premises.

***retail plant nursery*** means a building or place used for growing plants and selling plants by retail, whether or not landscaping supplies (including earth products) or other landscape and horticultural products are also sold at the building or place.

***riparian vegetation*** means any vegetation that is located adjacent to a wetland and is reliant on, and contributes to, the hydrological regime and ecology of that wetland.

***threatened species*** has the same meaning as in the Act.

***wetlands*** means:

- (a) natural wetlands, including marshes, salt marshes, mangroves, sea grasses, back waters, billabongs, swamps, sedgelands, wet meadows or wet heathlands, that form a shallow water body when inundated cyclically, intermittently or permanently with fresh, brackish or salt water and where the inundation determines the type and productivity of the soils and the plant and animal communities, or
- (b) non-natural wetlands, including marshes, swamps, wet meadows, sedgelands or wet heathlands, that form a shallow water body when inundated cyclically, intermittently or permanently with fresh, brackish or salt water and which differ from natural wetlands by being constructed or formed by non-natural processes and vegetated with wetland plant communities.

## **2004 No 873**

Botany Local Environmental Plan 1995 (Amendment No 4)

Schedule 1      Amendment of Botany Local Environmental Plan 1995

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### **[9] Schedule 1 definition of “the map”**

Insert in appropriate order in the definition:

Botany Local Environmental Plan 1995 (Amendment No 4)—Sheets A and B

### **[10] Schedule 2 Development for certain additional purposes**

Insert at the end of the Schedule:

- Land, being Lot 1, DP 780392 (proposed Lot 1 in subdivision) known as the Gardens R Us Nursery at Gardeners Road, Eastlakes—recreation facility, restaurant and retail plant nursery, with a floor space ratio not exceeding 0.5:1 and a building height not exceeding 2 storeys above natural ground level.
- Land, being Lot 1, DP 780392 (proposed Lot 2 in subdivision) known as the Sydney Water Depot at Gardeners Road, Eastlakes—utility undertakings, with a floor space ratio not exceeding 0.5:1 and a building height not exceeding 2 storeys above natural ground level.



Botany Local Environmental Plan 1995 (Amendment No 4)

Amendment of County of Cumberland Planning Scheme Ordinance

Schedule 2

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**Schedule 2 Amendment of County of Cumberland  
Planning Scheme Ordinance**

(Clause 5)

**[1] Clause 4 Land to which Ordinance applies**

Omit “*Interim Development Order No 4—Municipality of Botany*” and “*Interim Development Order No 17—Municipality of Botany*” from clause 4 (1) (a).

**[2] Clause 4 (1) (a)**

Insert at the end of the paragraph:

*Botany Local Environmental Plan 1995 (Amendment No 4)*