



New South Wales

Hurstville Local Environmental Plan 1994 (Amendment No 48)

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*. (S00/00495/S69)

DIANE BEAMER, M.P.,

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

2005 No 76

Clause 1 Hurstville Local Environmental Plan 1994 (Amendment No 48)

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1 Name of plan

This plan is *Hurstville Local Environmental Plan 1994 (Amendment No 48)*.

2 Aims of plan

The aims of this plan are:

- (a) to provide environmental planning controls that will result in the management of any disturbance to acid sulfate soils in the City of Hurstville so as to minimise impacts on natural waterbodies and wetlands, on fishing and aquaculture, and on 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 Hurstville classified as Class 1, 2, 3 or 5 on the map marked “Hurstville Local Environmental Plan 1994 (Amendment No 48)—Acid Sulfate Soils Planning Map” deposited in the office of Hurstville City Council.

4 Amendment of other environmental planning instruments

This plan amends:

- (a) *Hurstville Local Environmental Plan 1994* 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* by inserting at the end of Schedule 1 to that Policy:

Clause 22A of *Hurstville Local Environmental Plan 1994*

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Schedule 1 Amendments

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(Clause 4 (a))

[1] Clause 5 Definitions

Insert in alphabetical order in clause 5 (1):

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

Acid Sulfate Soils Planning Map means the map marked “Hurstville Local Environmental Plan 1994 (Amendment No 48)—Acid Sulfate Soils Planning Map”.

[2] Clause 22A

Insert after clause 22:

22A Development on land identified on the Acid Sulfate Soils Planning Map

(1) Consent usually required

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

Class of land as shown on Acid Sulfate Soils Planning Map	Works
1	Any works.
2	Works below natural ground surface. Works by which the watertable is likely to be lowered.

Class of land as shown on Acid Sulfate Soils Planning Map	Works
3	Works beyond 1 metre below natural ground surface. Works by which the watertable is likely to be lowered to any point beyond 1 metre below natural ground surface.
4	Works beyond 2 metres below natural ground surface. Works by which the watertable is likely to be lowered to any point beyond 2 metres below natural ground surface.
5	Works within 100 metres of adjacent Class 2 or 3 land which are likely to lower the watertable to any point below 1 metre AHD on adjacent Class 2 or 3 land.

- (2) For the purposes of the table to subclause (1), **works** includes:
- (a) any disturbance of more than one tonne of soil (such as occurs in carrying out the construction and maintenance of drains, extractive industries, dredging, the construction of artificial waterbodies (including canals, dams and detention basins) or foundations, or flood mitigation works), or
 - (b) any other works that are likely to lower the watertable.

(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 the works confirming that results of the preliminary assessment indicate that the proposed works need not be carried out pursuant to an

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Schedule 1 Amendments

acid sulfate soils management plan prepared in accordance with the *Acid Sulfate Soils Assessment Guidelines*.

(4) **Considerations for consent authority**

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

- (a) 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 within 21 days of the council having sent the 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 the council or any statutory or public authority 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.

(6) **Special provisions for the council or any statutory or public authorities**

Despite subclause (5), the following types of development may be carried out without consent by the council or any statutory or public authority:

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

and development ancillary to that development, such as the carrying out of excavation work, the construction of accessways and the provision of power supplies.

- (7) Where the council or any statutory or public authority carries out development described in subclause (6) and encounters, or is reasonably likely to encounter, actual acid sulfate soils, the council or statutory or public authority shall properly deal with those soils in accordance with the *Acid Sulfate Soils*

Assessment Guidelines so as to minimise the actual or potential impact to the environment arising from disturbance of the soils.

(8) In this clause:

council's works means such works as are owned or controlled by the council.

emergency work means the repair or replacement of any part of the council's works or the works of any statutory or public authority:

- (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 effected by the council or any statutory or public authority, but not drainage work, which has a value not greater than \$20,000.

routine maintenance means the periodic inspection, cleaning, repair and replacement of the council's works or the works of any statutory or public authority, but does not include work that would result in an increase in the design capacity of any part of those works or necessitates the deepening of an existing works capacity, except where one tonne, or less, of soils is disturbed.