



New South Wales

Woollahra Local Environmental Plan 1995 (Amendment No 39)

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*. (S03/01031/S69)

DIANE BEAMER, M.P.,
Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)

2005 No 88

Clause 1 Woollahra Local Environmental Plan 1995 (Amendment No 39)

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under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Woollahra Local Environmental Plan 1995 (Amendment No 39)*.

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 Woollahra local government area so as to minimise impacts on natural waterbodies, wetlands and harbour foreshores, and on fishing, 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 incorporate appropriate provisions for environmental assessment and management 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 Woollahra local government area classified as Class 1, 2, 3, 4 or 5 on the map marked “Woollahra Local Environmental Plan 1995 (Amendment No 39)—Acid Sulfate Soils Planning Map” deposited in the office of Woollahra Municipal Council.

4 Amendment of Woollahra Local Environmental Plan 1995

This plan amends:

- (a) *Woollahra 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* by inserting at the end of Schedule 1 to that Policy:

Clause 25D of *Woollahra Local Environmental Plan 1995*.

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Schedule 1 Amendments

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(Clause 4)

[1] **Clause 25B Exempt and complying development**

Insert “except for clause 25D (Acid Sulfate Soils)” after “this plan” in clause 25B (1).

[2] **Clause 25B (2) (c)**

Insert at the end of clause 25B (2) (b):

, and

- (c) it is not development that requires consent under clause 25D.

[3] **Clause 25D**

Insert after clause 25C:

25D Development on land identified on Acid Sulfate Soils Planning Map

(1) **Definitions**

In this clause:

acid sulfate soils means actual acid sulfate soils or potential acid sulfate soils.

Acid Sulfate Soils Management Plan means a plan, prepared in accordance with the *Acid Sulfate Soils Manual*, which identifies the extent and nature of acid sulfate soils on a particular site, assesses the likely impacts of any proposed activity upon those acid sulfate soils (including the consequence of no action), and details the prescriptive measures to be taken to minimise environmental impacts resulting from interaction between the acid sulfate soils and the proposed activity or inaction.

Acid Sulfate Soils Manual means the *Acid Sulfate Soils Manual* as published from time to time by the NSW Acid Sulfate Soils Management Advisory Committee.

Acid Sulfate Soils Plan of Management means a plan prepared by the Council, a private drainage board, or public authority in accordance with the *Acid Sulfate Soils Manual*.

Acid Sulfate Soils Planning Map means the map marked “Woollahra Local Environmental Plan 1995 (Amendment No 39)—Acid Sulfate Soils Planning Map” deposited in the office of Woollahra Municipal Council.

actual acid sulfate soils are soils containing highly acidic soil horizons or layers resulting from the oxidation of soil materials that are rich in sulfides, primarily pyrite. This oxidation produces acidity in excess of the sediment's capacity to neutralise the acidity resulting in soils of pH 4 or less.

emergency works means the repair or replacement of any part of a utility installation or associated infrastructure:

- (a) to address or prevent malfunction or damage resulting from natural disaster, accident, vandalism or similar events, and
- (b) includes works reasonably necessary to prevent or limit any further damage or malfunction.

potential acid sulfate soils are soils which contain iron sulfides or sulphuric material which have not been exposed to air and oxidised. The field pH of these soils in their unoxidised state is pH>4 and may be neutral or slightly alkaline.

routine maintenance works means works occurring on a regular basis which maintain public utility installations and associated infrastructure in good working order, but does not include works intended to increase the design capacity of an installation, extension of reticulation systems or works which involve the deepening of any drain. Such works include periodic inspection, replacement of existing pipes or cable, cleaning, or clearing of drains to a depth or profile specified in an Acid Sulfate Soils Plan of Management.

works includes:

- (a) any disturbance of more than one tonne of soil at or below the depth specified in the Table to subclause (2) (including, but not limited to, the construction or maintenance of drains, dredging, the construction of artificial waterbodies (including canals, dams and detention basins) or building foundations, or flood mitigation works), or
- (b) any other works that are likely to lower the watertable.

(2) **Works that require consent**

A person must not, without the consent of the Council, carry out works described in Column 2 of the following Table on land of the class specified in Column 1 of that Table for those works, except as otherwise provided by this clause.

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Schedule 1 Amendments

Column 1	Column 2
Class of land as shown on Acid Sulfate Soils Planning Map	Works
1	Any works
2	Works below existing ground level Works by which the watertable is likely to be lowered
3	Works beyond 1 metre below existing ground level Works by which the watertable is likely to be lowered beyond 1 metre below existing ground level
4	Works beyond 2 metres below existing ground level Works by which the watertable is likely to be lowered beyond 2 metres below existing ground level
5	Works within 500m of adjacent Class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land

(3) **Considerations for consent authority**

The Council must not grant 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 Manual*, and
- (b) the likelihood of the proposed development resulting in the discharge of acid water, and
- (c) any comments received from the Department of Infrastructure, Planning and Natural Resources within 21 days of the Council having sent that Department a copy of the development application and the related Acid Sulfate Soils Management Plan, and

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- (d) where consent is sought for drainage works or maintenance of open drains—any comments from the Department of Primary Industries received within 21 days of the Council having sent that Department a copy of the development application and the related Acid Sulfate Soils Management Plan.

(4) Exceptions following preliminary assessment

This clause does not require consent for the carrying out of works as described in subclause (2) if:

- (a) a copy of a preliminary assessment of the proposed works undertaken in accordance with the *Acid Sulfate Soils Manual* 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 the proposed works need not be carried out pursuant to an Acid Sulfate Soils Management Plan prepared in accordance with the *Acid Sulfate Soils Manual*.

(5) Routine maintenance and emergency works

Despite subclause (2), routine maintenance works may be carried out by the Council, a public authority or private drainage board without consent where an Acid Sulfate Soils Plan of Management relating to such works has been:

- (a) prepared in accordance with the *Acid Sulfate Soils Manual*, and
- (b) approved by the Council after considering any comments received from the Department of Infrastructure, Planning and Natural Resources and the Department of Primary Industries within 21 days of the Council having sent those Departments a copy of the draft Acid Sulfate Soils Plan of Management.

- (6) An Acid Sulfate Soils Plan of Management, as referred to in subclause (5), must be reviewed at least every 5 years and only has effect for 5 years from the date on which it is made.

- (7) Despite subclause (2), the Council or a public authority may carry out emergency works without consent if the Council or public authority properly deals with those soils in accordance with the *Acid Sulfate Soils Manual* so as to minimise the actual or potential impacts to the environment arising from the disturbance of the soils.