



New South Wales

Willoughby Local Environmental Plan 1995 (Amendment No 44)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S02/00819/S69)

FRANK SARTOR, M.P.,

Minister for Planning

2006 No 130

Clause 1

Willoughby Local Environmental Plan 1995 (Amendment No 44)

Willoughby Local Environmental Plan 1995 (Amendment No 44)

1 Name of plan

This plan is *Willoughby Local Environmental Plan 1995 (Amendment No 44)*.

2 Aims of plan

This plan aims:

- (a) to introduce a new Zone 4 (c) (Business Park Zone) into *Willoughby Local Environmental Plan 1995*, and
- (b) to rezone certain land from Zone 5 (a) (Special Uses “A” Zone) to Zone 4 (a) (General Industrial Zone), and
- (c) to rezone certain land from Zone 5 (a) (Special Uses “A” Zone), unzoned land and Zone 4 (a) (General Industrial Zone) to Zone 4 (c) (Business Park Zone), and
- (d) to change the special use of certain land in Zone 5 (a) (Special Uses “A” Zone) from use for a television station to use for communications, and
- (e) to include film and television production facilities as a permissible use in Zone 4 (a) (General Industrial Zone), and
- (f) to include film and television production facilities as a permissible use in Zone 4 (b) (Light Industrial Zone), and
- (g) to set development standards for floor space ratio on certain land to which this plan applies, and
- (h) to conserve the heritage of the built and natural environment of certain places to which this plan applies, and
- (i) to require consolidation of certain land to which this plan applies, and
- (j) to require a development control plan to be prepared in order to ensure development is coordinated over part of the land to which this plan applies before the land may be subdivided, and

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- (k) to allow existing buildings on part of the land to which this plan applies to be used, without external modifications, for office premises prior to the making by the Council of the development control plan referred to in paragraph (j), and
 - (l) to preserve the long-term viability of the existing communications tower by ensuring future development does not impede the tower's ability to provide communications around the Sydney Basin.

3 Land to which plan applies

- (1) To the extent that this plan rezones land as referred to in clause 2 (a) and (c), sets certain development standards as referred to in clause 2 (g), (i) and (k) or requires the preparation of a development control plan as referred to in clause 2 (j), it applies to Lots 1, 2, 3 and 4, DP 219048, Lots 7 and 8, Section 5 DP 4088, Lot 2, DP 528955, Lot 2, DP 226278, Lot B, DP 397154, Lot 1, DP 200910 and Lot 100, DP 858850, commonly known as the ABC Gore Hill site, part of 217 and 239 Pacific Highway, 2 Clarendon Street and 12 Campbell Street, Artarmon, as shown edged heavy black, coloured purple with red edging and lettered "4 (c)" on Sheet 1 of the map marked "Willoughby Local Environmental Plan 1995 (Amendment No 44)" deposited in the office of Willoughby City Council.
- (2) To the extent that this plan rezones land as referred to in clause 2 (b), it applies to Lots 12, 13 and 15, DP 233037, commonly known as 14 Campbell Street and 4-6 Lanceley Place, Artarmon, as shown edged heavy black, coloured purple and lettered "4 (a)" on Sheet 1 of that map.
- (3) To the extent that this plan changes the special use of land as referred to in clause 2 (d), it applies to Lot B, DP 444493, commonly known as part of 217 Pacific Highway, Artarmon, as shown edged heavy black, coloured yellow and lettered in red "Communications" on Sheet 1 of that map.
- (4) To the extent that this plan includes an additional permissible use as referred to in clause 2 (e) and (f), it applies to all land within Zones 4 (a) (General Industrial Zone) and 4 (b) (Light Industrial Zone) under *Willoughby Local Environmental Plan 1995*.

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- (5) To the extent that this plan conserves heritage as referred to in clause 2 (h), it applies to Lot 4, DP 219048, Lot B, DP 397154 and Lot B, DP 444493, commonly known as 217 Pacific Highway, Artarmon, as shown coloured partly green and partly red on Sheet 2 of that map.

4 Amendment of Willoughby Local Environmental Plan 1995

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

Schedule 1 Amendments

(Clause 4)

[1] Clause 5 Definitions

Insert in alphabetical order in clause 5 (1):

film and television production facility means a building or place used for the purpose of carrying out the production of film and television, including post production.

green travel plan means a package of initiatives to reduce car based travel.

high technology industry means an enterprise that has as its primary function the manufacture, development, production, processing or assembly of, or research into, any of the following:

- (a) electronic and micro-electronic systems, goods and components,
- (b) information technology, computer software and hardware,
- (c) instrumentation and instruments,
- (d) production of film and television, including any post production,
- (e) biological, pharmaceutical, medical or paramedical systems, goods and components,
- (f) other goods, systems and components intended for use in science and technology or communications.

weekend market means a temporary outlet for the sale of goods, arts, crafts, food or services that are not available through normal commercial outlets, being a temporary outlet that satisfies the following criteria:

- (a) it does not include a building or place used for a purpose referred to in clause 42C (2) (b),
- (b) it is operated on weekends only,
- (c) it does not involve the erection of a permanent structure,

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- (d) it is managed by or on behalf of a charity or community based organisation,
- (e) it does not have significant adverse cumulative economic impact on other businesses within the locality or in the area of the City of Willoughby,
- (f) it does not have adverse traffic impacts on the surrounding local road system.

[2] Clause 5 (1), definition of “Heritage and Conservation Map”

Insert in appropriate order:

Willoughby Local Environmental Plan 1995 (Amendment No 44)—Sheet 2

[3] Clause 5 (1), definition of “the map”

Insert in appropriate order:

Willoughby Local Environmental Plan 1995 (Amendment No 44)—Sheet 1

[4] Clause 12 Zones indicated on the map

Insert in appropriate order:

Zone 4 (c) (Business Park Zone)—coloured purple with red edging and lettered “4 (c)”.

[5] Clause 42 Industrial areas

Insert in appropriate order:

Zone 4 (c) (Business Park Zone)—coloured purple with red edging and lettered “4 (c)”.

[6] Clause 42A Zone 4 (a)—General Industrial Zone

Insert in alphabetical order under the words “Development for the purpose of:” in clause 42A (2) (b):

film and television production facilities

[7] Clause 42B Zone 4 (b)—Light Industrial Zone

Insert in alphabetical order under the words “Development for the purpose of:” in clause 42B (2) (b):

film and television production facilities

[8] Clause 42C

Insert after clause 42B:

42C Zone 4 (c)—Business Park Zone

(1) **Specific Objective**

To accommodate a variety of light industrial and high technology uses.

(2) **Development Within the Zone**

(a) Within the 4 (c) Business Park Zone, the following development may be carried out **without development consent:**

exempt development

(b) Within the 4 (c) Business Park Zone, the following development may only be carried out **with development consent:**

Demolition

Development for the purpose of:

advertisements

banks

carparking

car repair stations

community facilities

drainage

exhibition or conference centres

high technology industries

hotels

light industries

motor showrooms

museums

newsagencies

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pharmacies or chemist shops
places of public worship
recreation areas
recreation facilities
restaurants
roads
service stations
take-away food shops, including milk bars, hot
food bars and sandwich shops, but excluding
drive-in take-away food shops
utility installations
veterinary hospitals
warehouses
weekend markets

- (c) Within the 4 (c) Business Park Zone, any other development is prohibited.

[9] Clause 43 Floor space ratios

Insert after clause 43 (1A):

- (1B) The Council must not consent to the erection of buildings on land within Zone 4 (c) if:
- (a) the floor space ratio of all buildings on the site area exceeds 1.5:1, and
 - (b) the site coverage exceeds 45% of the site area.
- (1C) For the purposes of calculating the floor space ratio under subclause (1B) (a), the site area includes the total area of all land within Zone 4 (c).
- (1D) For the purposes of calculating the site coverage under subclause (1B) (b), the site coverage means that portion of the site covered by any building or structure as defined by the outer face of the external walls of the building or structure, including garages, carports and enclosed structures, but excluding:
- (a) sunshade devices, awnings and minor garden structures, and
 - (b) the roof of any excavated or covered car parking area that is permanently landscaped and does not project

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- above the natural ground level of the site by more than 1,000mm, and
 - (c) roads.

[10] Clause 43 (2)

Omit the subclause. Insert instead:

- (2) The Council must not consent to the erection or use of a building on land within Zone 4 (a), 4 (b) (other than land within Zone 4 (b) known as the East Chatswood Industrial Area) or 4 (c), for the purpose of an office or showroom unless:
 - (a) the office or showroom use:
 - (i) is ancillary to an industrial use, and
 - (ii) is not more than 20% of the net floor area of all buildings on the site, or
 - (b) in the case of land within Zone 4 (c), the office or showroom is associated with a high technology industry.

[11] Clause 46A

Insert after clause 46:

46A Special controls for the ABC Gore Hill site

- (1) The clause applies to land consisting of Lots 1, 2, 3 and 4, DP 219048, Lots 7 and 8, Section 5, DP 4088, Lot 2, DP 528955, Lot 2, DP 226278, Lot B, DP 397154, Lot 1, DP 200910 and Lot 100, DP 858850, commonly known as the ABC Gore Hill site, part of 217 and 239 Pacific Highway, 2 Clarendon Street and 12 Campbell Street, Artarmon.
- (2) The Council must not consent to development (including subdivision) on the land to which this clause applies unless the lots have been consolidated and a development control plan has been approved by the Council.
- (3) A development control plan is to be prepared following consultation with the Council and is to illustrate and explain, where appropriate, proposals in relation to the land for the following:
 - (a) urban design, including proposals about density, height controls, building envelopes, identified views, privacy

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- and security and other design elements with an explanation of how they relate to an analysis of the land and its context,
- (b) phasing of development on the land,
 - (c) distribution of land uses, including public access and open space,
 - (d) access, in terms of public transport, pedestrian, cycle and road access and circulation networks, including proposals about local traffic impact and parking,
 - (e) steps that will be taken to promote public transport use, which must include the provision of a bus service by the owner of the land between the site and the St Leonards Railway Station and a green travel plan,
 - (f) the provision of parking and the location of parking on the land, which must be provided at no more than 1 car space per 100m gross floor area, (10% of which should be allocated for visitor parking), except for the community facilities to be dedicated to the Council,
 - (g) a subdivision concept plan,
 - (h) provision of services and utilities infrastructure, including on-site stormwater detention,
 - (i) heritage conservation and interpretation measures, implementing the guidelines set out in any applicable conservation policy and for protection of archaeological relics,
 - (j) remediation or decontamination of the site,
 - (k) provision of community facilities to be dedicated to the Council,
 - (l) provision of open space, its function and landscaping, including retention and protection of significant trees,
 - (m) ongoing site maintenance and management of the public domain facilities,
 - (n) guidelines for building design and site development to achieve a high standard of energy efficiency, water conservation, waste management (construction and operational) and air, noise and water quality,

- (o) social and cultural impacts from the effect of implementing its proposals,
 - (p) maintenance of the existing vehicular access from the adjoining communications site to the Pacific Highway over the existing right of way or by other suitable means of access,
 - (q) the location, design, height, form, materials, use and construction of buildings to prevent adverse impacts on the operations of the communications tower located on Lot B, DP 444493,
 - (r) compliance with ARPANSA standards and other applicable standards with regard to human exposure to electromagnetic energy appearing in any applicable code or standard made under any applicable law of the Commonwealth,
 - (s) any other matter required by the Council.
- (4) The development control plan must be prepared and submitted in accordance with subclause (3) and section 74D of the Act.
- (5) The Minister is authorised, for the purposes of section 74D (5) (b) of the Act, to act in the place of the Council in accordance with that section.
- (6) Despite subclause (2), the Council may consider a development application (other than a development application for subdivision of the land) for consent to the occupation of the ABC buildings existing as at the date of gazettal of *Willoughby Local Environmental Plan 1995 (Amendment No 44)* if the land has not been consolidated or if there is no development control plan for the land, but only if:
- (a) there are no external modifications or structural changes to the existing buildings, and
 - (b) the proposed use would not impact on the amenity of the land, the existing parking provision on the land and the existing local traffic volumes.
- (7) A development consent under subclause (6) may be for a period of not more than 2 years.

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- (8) Despite any other provision of this plan, but subject to this clause, the Council may grant consent to the use of existing buildings on the site for the purpose of office premises.
- (9) When considering a development application for the adaptation of the ABC building known as the Studio Complex, the Council may, for the purpose of determining the floor space ratio, exclude from its calculation of the gross floor area of the buildings erected on the land the gross floor area of the Studio Complex, but only if the Council is satisfied that the conservation of the Studio Complex and its setting will be achieved by the Council granting the exclusion.
- (10) The Council must not consent to the demolition of the ABC building known as the Studio Complex unless the Council is satisfied that adaptation of that building has been thoroughly considered as an option and adaptation of the building is not considered to be a viable option.
- (11) Despite clause 43 (1B), when considering a development application for the provision of community facilities to be dedicated to the Council on land within Zone 4 (c), the Council may, for the purposes of determining the floor space ratio, exclude from its calculation of the gross area of the buildings erected on the land, the gross floor area of the community facilities.
- (12) Despite any other provision of this plan, the Council must not consent to development on land to which this clause applies if the development will result in the erection of a building or other structure (including a temporary structure) having a height greater than that shown on the height control map for the relevant land.
- (13) *State Environmental Planning Policy No 1—Development Standards* does not apply to subclause (12).
- (14) In this clause:
height of a building or structure means the distance measured vertically from Australian Height Datum (AHD) to the highest point of the building or structure.
height control map means the map marked “Willoughby Local Environmental Plan 1995 (Amendment No 44)—Sheet 3 —Height Control Map”.

[12] Clause 52A

Insert after clause 52:

52A Development of the communications tower at 217 Pacific Highway, Artarmon

Despite any other provision of this plan, development of the land commonly known as part of 217 Pacific Highway, Artarmon, being Lot B, DP 444493, for the following purposes may be carried out without development consent:

- (a) gantries, platforms, ladders, fall arrestors or other support or safety structures used in relation to the communications tower on that land,
- (b) works that are ancillary or incidental to a purpose referred to in paragraph (a),
- (c) a matter defined as a facility in column 2 of the Schedule to the *Telecommunications (Low-impact Facilities) Determination 1997* made under the *Telecommunications Act 1997* of the Commonwealth.

[13] Clause 57 Heritage items and conservation areas

Omit clause 57 (1). Insert instead:

- (1) This clause does not apply to:
 - (a) exempt development, or
 - (b) development for the purposes listed in clause 52A (a)–(c) with respect to the land commonly known as part of 217 Pacific Highway, being Lot B, DP 444493.

[14] Schedule 6 Heritage items classified to be of State or Regional significance

Insert in alphabetical order of street name:

Communications Tower (excluding all ancillary buildings and structures and tower attachments)

Part of 217 Pacific Highway,
Artarmon
Lot B, DP 444493

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[15] Schedule 7 Heritage items classified to be of local significance

Insert in alphabetical order of street name:

Brick building (known as the Bullbrooks building) occupying the original Pacific Highway frontage, single storey building	Part of 217 Pacific Highway, Artarmon Lot 4, DP 219048
Gateway entry pylons	Part of 217 Pacific Highway, Artarmon Lot 4, DP 219048
Footings of the former Transmission Tower	Part of 217 Pacific Highway, Artarmon Lot B, DP 397154

BY AUTHORITY
