

Environmental Planning and Assessment Amendment (Affordable Housing) Act 2000 No 29

[2000-29]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **See also**
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2003](#)

Authorisation

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Environmental Planning and Assessment Amendment (Affordable Housing) Act 2000 No 29



New South Wales

Contents

Long title	3
1 Name of Act	3
2 Commencement	3
3 Interpretation	3
4 Amendment of Environmental Planning and Assessment Act 1979 No 203	3
5 General validation	3
6 Validation of certain affordable housing schemes	4
7 Future application of certain affordable housing schemes	4
8 Amendment or repeal of validated provisions	4
9 Compensation	4
Schedule 1 Amendment of Environmental Planning and Assessment Act 1979	4
Schedule 2 Validation of affordable housing schemes	7
Schedule 3 Green Square local environmental plan	10

Environmental Planning and Assessment Amendment (Affordable Housing) Act 2000 No 29



New South Wales

An Act to amend the *Environmental Planning and Assessment Act 1979* to make further provision for affordable housing; to make or validate certain instruments and to validate other matters relating to affordable housing; and for other purposes.

1 Name of Act

This Act is the *Environmental Planning and Assessment Amendment (Affordable Housing) Act 2000*.

2 Commencement

This Act commences on the date of assent.

3 Interpretation

- (1) The *Environmental Planning and Assessment Act 1979* is referred to in this Act as the Principal Act.
- (2) References in this Act to anything done include references to anything purporting to have been done.

4 Amendment of *Environmental Planning and Assessment Act 1979 No 203*

The Principal Act is amended as set out in Schedule 1.

5 General validation

Anything:

- (a) that was done or omitted to be done before the commencement of this Act, and
- (b) that would have been lawful if the Principal Act, as amended by:
 - (i) Schedule 1 to the *Environmental Planning and Assessment Amendment Act 1999*, and

(ii) Schedule 1 [1] to this Act,

had been in force when the thing was done or omitted to be done,

is as valid as it would have been had that Act, as so amended, been in force when the thing was done or omitted.

6 Validation of certain affordable housing schemes

Schedule 2 has effect.

7 Future application of certain affordable housing schemes

(1) The following provisions, as validated by this Act, are taken to be repealed on the second anniversary of the date of assent to this Act unless sooner repealed by an environmental planning instrument:

(a) Part 4 of *Sydney Regional Environmental Plan No 26—City West*,

(b) Division 3 of Part 4 of *South Sydney Local Environmental Plan 1998*,

(c) clause 25B of *Willoughby Local Environmental Plan 1995*,

(d) the provisions of the section 94 contributions plans validated by Schedule 2.4–2.6.

(2) If a provision referred to in subsection (1) (a)–(d) applies to a development application when the application is made, the provision continues to apply to that application until the application is finally determined.

(3) Sections 94F and 94G of the Principal Act, as inserted by this Act, do not apply to a development application to which a provision referred to in subsection (1) (a)–(d) applies.

8 Amendment or repeal of validated provisions

Except as provided by section 7, nothing in this Act prevents or restricts the amendment or repeal of any provision of an environmental planning instrument validated by this Act.

9 Compensation

To remove any doubt, the *Land Acquisition (Just Terms Compensation) Act 1991* does not apply to anything done or required to be done pursuant to a consent granted before or after the commencement of this Act in accordance with a provision referred to in section 7 (1) (a), (b) or (c).

Schedule 1 Amendment of Environmental Planning and Assessment

Act 1979

(Section 4)

[1] Section 26 Contents of environmental planning instruments

Omit section 26 (1) (d). Insert instead:

- (d) providing, maintaining and retaining, and regulating any matter relating to, affordable housing,

[2] Section 80A Imposition of conditions

Insert “or 94F” after “section 94” in section 80A (1) (h).

[3] Part 4, Division 6A (sections 94F and 94G)

Insert after section 94E:

Division 6A Conditions requiring land or contributions for affordable housing

94F Conditions requiring land or contributions for affordable housing

- (1) This section applies with respect to a development application for consent to carry out development within an area if a State environmental planning policy identifies that there is a need for affordable housing within the area and:
 - (a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or
 - (b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or
 - (c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or
 - (d) the regulations provide for this section to apply to the application.
- (2) Subject to subsection (3), the consent authority may grant consent to a development application to which this section applies subject to a condition requiring:
 - (a) the dedication of part of the land, or other land of the applicant, free of cost to be used for the purpose of providing affordable housing, or
 - (b) the payment of a monetary contribution to be used for the purpose of providing affordable housing,

or both.

- (3) A condition may be imposed under this section only if:
 - (a) the condition complies with all relevant requirements made by a State environmental planning policy with respect to the imposition of conditions under this section, and
 - (b) the condition is authorised to be imposed by a regional environmental plan or local environmental plan, and is in accordance with a scheme for dedications or contributions set out in or adopted by such a plan, and
 - (c) the condition requires a reasonable dedication or contribution, having regard to the following:
 - (i) the extent of the need in the area for affordable housing,
 - (ii) the scale of the proposed development,
 - (iii) any other dedication or contribution required to be made by the applicant under this section or section 94.
- (4) A consent authority that proposes to impose a condition in accordance with this section must take into consideration any land or other sum of money that the applicant has previously dedicated free of cost, or previously paid, for the purpose of affordable housing within the area otherwise than as a condition of a consent.
- (5) Nothing in this section prevents the imposition on a development consent of other conditions relating to the provision, maintenance or retention of affordable housing. Such conditions may require, but are not restricted to, the imposition of covenants (including positive covenants) or the entering into of contractual or other arrangements.

94G Provision of affordable housing

- (1) Land dedicated in accordance with a condition imposed under this Division must:
 - (a) be made available by the consent authority for the purposes of affordable housing within a reasonable time, or
 - (b) be transferred by the consent authority in accordance with any applicable direction under subsection (3).
- (2) A consent authority must:
 - (a) hold any monetary contribution paid in accordance with a condition imposed under this Division (and any additional amount earned from its investment)

for the purpose for which the payment was required and apply the money for the purposes of affordable housing in the area or an adjoining area within a reasonable time, or

- (b) pay the monetary contribution in accordance with any applicable direction under subsection (3).
- (3) The Minister may give a direction, that applies generally or in any particular case or class of cases, to a consent authority:
- (a) requiring it to transfer land to a person nominated by the Minister, if it imposes a condition under this Division requiring dedication of the land, or
 - (b) requiring it to pay a monetary contribution to a person nominated by the Minister, if it imposes a condition under this Division requiring the payment of the monetary contribution.
- (4) A person nominated under this section by the Minister must:
- (a) make available any land transferred to the person under this Division for the purposes of affordable housing within a reasonable time, and
 - (b) apply any monetary contribution paid to the person under this Division (and any additional amount earned from its investment) for the purposes of affordable housing in the area concerned or in an adjoining area within a reasonable time.

Schedule 2 Validation of affordable housing schemes

(Section 6)

2.1 Green Square affordable housing scheme

(1) The instrument set out in Schedule 3 is taken:

- (a) to have been duly made in accordance with the Principal Act as a local environmental plan, and
- (b) to have been duly published in accordance with the Principal Act on 28 May 1999, and
- (c) to have commenced on 28 May 1999.

(2) The instrument cited as *South Sydney City Council Green Square Affordable Housing Development Control Plan*, as approved by South Sydney City Council on 10 February 1999, is taken:

- (a) to have been duly made and approved in accordance with the Principal Act as a development control plan, and

(b) to have had effect on and from 28 May 1999.

(3) Without limiting subclauses (1) and (2) or section 5, anything done or omitted to be done on or after 28 May 1999 and before the commencement of this Act (including the granting of a development consent) is as valid as it would have been had the instrument set out in Schedule 3 and the development control plan referred to in subclause (2) been in force when the thing was done or omitted.

2.2 City West affordable housing scheme

(1) The instrument cited as *Sydney Regional Environmental Plan No 26—City West (Amendment No 4—Affordable Housing)* and published in Gazette No 23 of 3 March 1995 at pages 1123–1131 is taken:

(a) to have been duly made in accordance with the Principal Act as a regional environmental plan, and

(b) to have been duly published in accordance with the Principal Act on 3 March 1995, and

(c) to have commenced on 3 March 1995.

(2) The instrument cited as *Revised City West Housing Program*, as adopted by the Minister on 21 July 1996, is taken:

(a) to have been duly adopted as an official program for the purposes of Part 4 of *Sydney Regional Environmental Plan No 26—City West*, and

(b) to have had effect on and from 21 July 1996.

(3) Without limiting subclauses (1) and (2) or section 5, anything done or omitted to be done on or after 3 March 1995 and before the commencement of this Act (including the granting of a development consent) is as valid as it would have been had the regional environmental plan referred to in subclause (1) and the official program referred to in subclause (2) been in force when the thing was done or omitted.

2.3 St Leonards affordable housing scheme

(1) The instrument cited as *Willoughby Local Environmental Plan 1995 (Amendment No 21)* and published in Gazette No 137 of 3 December 1999 at pages 11714–11720 is taken:

(a) to have been duly made in accordance with the Principal Act as a local environmental plan, and

(b) to have been duly published in accordance with the Principal Act on 3 December 1999, and

(c) to have commenced on 3 December 1999.

(2) The instrument titled *Willoughby Development Control Plan No 23—Willoughby Local Housing Program*, as approved by Willoughby City Council on 8 March 1999 is taken:

(a) to have been duly made and approved in accordance with the Principal Act as a development control plan, and

(b) to have had effect on and from 3 December 1999.

(3) Without limiting subclauses (1) and (2) or section 5, anything done or omitted to be done on or after 3 December 1999 and before the commencement of this Act (including the granting of a development consent) is as valid as it would have been had the local environmental plan referred to in subclause (1) and the development control plan referred to in subclause (2) been in force when the thing was done or omitted.

2.4 North Sydney affordable housing contributions plan

(1) The provisions of the instrument titled *North Sydney Council Section 94 Contributions Plan—Affordable Housing*, as approved by North Sydney Council on 13 November 1995, are taken:

(a) to have been duly made under the Principal Act and approved in accordance with that Act as provisions of a contributions plan, and

(b) to have had effect on and from 13 November 1995.

(2) Without limiting subclause (1) or section 5, anything done or omitted to be done on or after 13 November 1995 and before the commencement of this Act (including the granting of a development consent) is as valid as it would have been had the provisions referred to in subclause (1) been in force when the thing was done or omitted.

2.5 Provisions of Randwick affordable housing contributions plan

(1) The provisions set out on pages 29 and 30 (headed “Loss of Affordable Housing”) of the instrument titled *Randwick City Council Section 94 Contributions Plan* and known as Policy No 6.01.30, as approved by Randwick City Council on 20 August 1999, are taken:

(a) to have been duly made under the Principal Act and approved in accordance with that Act as provisions of a contributions plan, and

(b) to have had effect on and from 20 August 1999.

(2) Without limiting subclause (1) or section 5, anything done or omitted to be done on or after 20 August 1999 and before the commencement of this Act (including the granting of a development consent) is as valid as it would have been had the provisions referred to in subclause (1) been in force when the thing was done or omitted.

2.6 Provisions of Waverley affordable housing contributions plan

(1) The provisions of Part 5 (Loss of Affordable Housing) of the instrument titled *Waverley Council Section 94 Contributions Plan*, as approved by Waverley Council on 22 September 1998, are taken:

- (a) to have been duly made under the Principal Act and approved in accordance with that Act as provisions of a contributions plan, and
- (b) to have had effect on and from 22 September 1998.

(2) Without limiting subclause (1) or section 5, anything done or omitted to be done on or after 22 September 1998 and before the commencement of this Act (including the granting of a development consent) is as valid as it would have been had the provisions referred to in subclause (1) been in force when the thing was done or omitted.

Schedule 3 Green Square local environmental plan

(Schedule 2.1)

South Sydney Local Environmental Plan 1998 (Amendment No 6)—Green Square

1 Name of plan

This plan is the *South Sydney Local Environmental Plan 1998 (Amendment No 6)—Green Square*.

2 Land covered by this plan

- (1) This plan applies to the part of the Green Square redevelopment area shown coloured on the map marked “South Sydney Local Environmental Plan 1998 (Amendment No 2)—Green Square—Zoning” deposited in the office of South Sydney City Council.
- (2) However, this plan does not apply to the land identified on that map as “deferred matter”.

3 Aims of this plan

The aims of this plan are:

- (a) to capitalise on the strategic location of Green Square in the City South Region, and
- (b) to maximise the use of the new Green Square Railway Station and the New Southern Railway infrastructure, and
- (c) to provide opportunities for the redevelopment of industrial land for a range of residential and business land uses, and
- (d) to establish the planning principles and integrated planning controls which seek to achieve the vision for Green Square set out in the Green Square Structural Masterplan which is available for inspection at the office of South Sydney City Council, and

- (e) to encourage a variety of housing types and tenures (including affordable housing) to accommodate a range of income groups close to employment and services, and
- (f) to ensure that low to moderate income households can live in Green Square through requiring development to provide an appropriate proportion of affordable housing, and
- (g) to facilitate the development of a vibrant and sustainable community, which is based on accessibility, reduced car dependence, a mix of land uses, friendly and safe streets, high quality public domain and active commercial centres, and
- (h) to protect the amenity of the existing residential communities around Green Square, and
- (i) to reinforce the focal role of the Green Square Railway Station through the establishment and support of an active commercial and residential core within walking distance from the Station, and
- (j) to protect the integrity of adjoining land zoned for industrial purposes, and
- (k) to ensure the planning, assessment and implementation of development in Green Square draws on an equal and integrated consideration of social, environmental, economic and urban design issues.

4 Relationship to other plans

This plan amends:

- (a) *South Sydney Local Environmental Plan 1998* as set out in Schedule 1, and
- (b) *City of Sydney Planning Scheme Ordinance* and *South Sydney Local Environmental Plan No 114 (Southern Industrial and Rosebery/Zetland Planning Districts)* as set out in Schedule 2.

Schedule 1 Amendment of South Sydney Local Environmental Plan 1998

(Clause 4 (a))

[1] Clause 9 Zones indicated on the map

Insert at the end of clause 9:

- Zone No 10 (a) Mixed Uses "A" Zone
- Zone No 10 (b) Mixed Uses "B" Zone
- Zone No 10 (c) Mixed Uses "C" Zone
- Zone No 10 (d) Mixed Uses "D" Zone

[2] Clause 15 Zoning controls for Zone No 5—the Special Uses Zone

Insert at the end of clause 15 (1) (c):

, and

- (d) for land in the zone and within Green Square, in addition to the above:
 - (i) to reflect and reinforce the need for proper recognition of community land and facilities as part of a robust public domain in the Green Square locality, and
 - (ii) to recognise that protecting and improving the quality, accessibility and impact of the public domain makes a fundamental contribution to the social, economic, environmental and urban design outcomes for the area, and
 - (iii) to ensure that development contributes to a sustainable, vibrant community, and reflects equal and integrated consideration of social, economic and environmental design issues.

[3] Clause 16 Zoning controls for Zone No 6 (a)—the Local Recreation Zone

Insert at the end of clause 16 (1) (e):

, and

- (f) for land in the zone and within Green Square, in addition to the above, to ensure that development contributes to a sustainable, vibrant community, and reflects equal and integrated consideration of social, economic and environmental design issues.

[4] Clauses 21A-21D

Insert after clause 21:

21A Zoning controls for Zone No 10 (a)—the Mixed Uses “A” Zone

- (1) **What are the objectives of the zone?** The objectives of Zone No 10 (a) are:
 - (a) to protect and enhance the historical character and amenity of the existing residential neighbourhoods within Green Square, and
 - (b) to identify those localities which are primarily residential and where in future primarily residential infill development is to occur, and
 - (c) to ensure that building form, including alterations and additions, is in character with the surrounding built environment and does not detract from the amenity and environmental quality enjoyed by nearby residents, and

- (d) to allow up to 15% non-residential uses on each development site, and
- (e) to offer limited opportunities for non-residential development, which provides goods, services or employment for residents and is of a type and scale that is compatible with existing or planned residential development and does not detract from the amenity and environmental quality enjoyed by nearby residents, and
- (f) to minimise any adverse impact, including social impact, on residential amenity by devising appropriate design assessment criteria and applying specific impact mitigation requirements by the use of development control plans, and
- (g) to ensure that development contributes to a sustainable, vibrant community, and reflects equal and integrated consideration of social, economic and environmental design issues.

(2) **What does not require consent?** Development for the purpose of:

home businesses, minor building works.

(3) **What requires development consent?** Development for the purpose of:

bed and breakfasts, boarding houses, child care centres, commercial signs*, community centres, dwelling houses, educational establishments, home industries, hospitals, local businesses, local shops, multiple dwellings, non-structural advertisements*, places of public worship, professional consulting rooms, public buildings, restaurants, roads, under awning signs*.

(4) **What is prohibited?** Development not included in subclause (2) or (3).

Note—

* Refer to Part 5 (Performance based exemptions) to determine whether you need to obtain development consent.

21B Zoning controls for Zone No 10 (b)—the Mixed Uses “B” Zone

(1) **What are the objectives of the zone?** The objectives of Zone No 10 (b) are:

- (a) to provide urban housing and a range of compatible vibrant non-residential uses, such as shops, offices, retail and studio-type workshops, and
- (b) to promote mixed use planning by encouraging the location of facilities such as housing, places of employment and shops in close proximity to each other and so as to be accessible by public transport, and
- (c) to allow up to 25% non-residential uses on each development site, and

- (d) to ensure non-residential uses are environmentally compatible with residential uses, and do not adversely affect residential amenity, within the zone, and
- (e) to minimise any adverse impact, including social impact, on residential amenity by devising appropriate design assessment criteria and applying specific impact mitigation requirements by the use of development control plans, and
- (f) to ensure that the nuisance generated by non-residential development, such as is caused by operating hours, noise, loss of privacy, vehicular and pedestrian traffic or other factors, is controlled, so as to preserve the quality of life for residents in the area, and
- (g) to ensure that development contributes to a sustainable, vibrant community, and reflects equal and integrated consideration of social, economic and environmental design issues.

(2) **What does not require development consent?** Development for the purpose of:
home businesses, minor building works.

(3) **What requires development consent?** Development for the purpose of:

backpackers' hostels, bed and breakfasts, boarding houses, commercial premises, commercial signs*, community centres, dwelling houses, educational establishments, high technology industries, home industries, hospitals, hotels, light industries, local businesses, multiple dwellings, non-structural advertisements*, places of assembly, places of public worship, private hotels, professional consulting rooms, public buildings, roads, recreation areas, recreation facilities, restaurants, serviced apartments, shop, under awning signs*.

Any other development not included in subclause (2).

Note—

* Refer to Part 5 (Performance based exemptions) to determine whether you need to obtain development consent.

21C Zoning controls for Zone No 10 (c)—the Mixed Uses “C” Zone

(1) **What are the objectives of the zone?** The objectives of Zone No 10 (c) are:

- (a) to promote mixed use development in the Green Square Centre by encouraging urban housing in conjunction with appropriate business activities which contribute to economic growth and employment opportunities, and

- (b) to require the provision of a minimum of 25% non-residential uses on each development site, and
- (c) to promote the vitality of the public domain by encouraging the location of active retail and entertainment uses at ground level, particularly in areas fronting the Green Square Railway Station, and
- (d) to ensure through the design of a high quality public domain that a high level of amenity is provided for pedestrians, shoppers and workers within the zone, and
- (e) to minimise any adverse impact, including social impact, on residential amenity by devising appropriate design assessment criteria and applying specific impact mitigation requirements by the use of development control plans, and
- (f) to ensure that the nuisance generated by non-residential development, such as is caused by operating hours, noise, loss of privacy, vehicular and pedestrian traffic or other factors, is controlled so as to preserve the quality of life for residents in the area, and
- (g) to ensure that development contributes to a sustainable, vibrant community, and reflects equal and integrated consideration of social, economic and environmental design issues.

(2) **What does not require development consent?** Development for the purpose of:
home businesses, minor building works.

(3) **What requires development consent?** Development for the purpose of:
advertising structures, backpackers' hostels, bed and breakfasts, boarding houses, clubs, child care centres, commercial premises, commercial signs*, community centres, dwellings attached to, or within, a building used or intended to be used for a land use which is permissible within the zone, educational establishments, high technology industries, home industries, hotels, light industries, local businesses, medical centres, multiple dwellings, non-structural advertisements*, places of assembly, places of public worship, private hotels, public buildings, recreation areas, recreation facilities, restaurants, roads, serviced apartments, shops, under awning signs*.

Any other development not included in subclause (2).

Note—

* Refer to Part 5 (Performance based exemptions) to determine whether you need to obtain development consent.

21D Zoning controls for Zone No 10 (d)—the Mixed Uses “D” Zone

- (1) **What are the objectives of the zone?** The objectives of Zone No 10 (d) are:
- (a) to establish a predominantly employment based zone while allowing not more than 15% residential use of each development site, but only if it supports those employment uses, and
 - (b) to encourage appropriate business activities which contribute to economic growth and employment opportunities within the Green Square area, and
 - (c) to promote the vitality of the public domain by encouraging the location of active retail and entertainment uses at ground and first floor levels, particularly in areas fronting the Green Square Railway Station, and
 - (d) to ensure through the design of a high quality public domain that a high level of amenity is provided for pedestrians, shoppers and workers within the zone, and
 - (e) to minimise any adverse impact, including social impact, on residential amenity by devising appropriate design assessment criteria and applying specific impact mitigation requirements by the use of development control plans, and
 - (f) to ensure that existing and future development on land zoned industrial under this plan is preserved and promoted so as to protect the existing employment within South Sydney, and
 - (g) to ensure that development within the zone contributes to a sustainable, vibrant community, and reflects equal and integrated consideration of social, economic and environmental design issues.
- (2) **What does not require development consent?** Development for the purpose of:
home businesses, minor building works.
- (3) **What requires development consent?** Development for the purpose of:
advertising structures, amusement centres, backpackers’ hostels, bed and breakfasts, car repair stations, child care centres, clubs, commercial premises, commercial signs*, community centres, dwellings used in conjunction with and attached to a building used or intended to be used for a land use which is permissible within the zone, educational establishments, high technology industries, home industries, hospitals, hotels, light industries, local businesses, medical centres, motels, motor showrooms, multiple dwellings used in conjunction with and attached to, or within a building used or intended to be used for, a land use which is permissible within the zone, non-structural advertisements*, passenger transport

terminals, places of assembly, places of public worship, private hotels, public buildings, recreation areas, recreation facilities, restaurants, roads, service stations, shops, under awning signs*, warehouses or distribution centres.

(4) **What is prohibited?** Development not included in subclause (2) or (3).

Note—

* Refer to Part 5 (Performance based exemptions) to determine whether you need to obtain development consent.

[5] Part 4, Division 1, heading

Insert before clause 22:

Division 1 **Heritage conservation**

[6] Part 4, Divisions 2 and 3

Insert after clause 27:

Division 2 Development at Green Square

27A Vision for Green Square

(1) The vision for Green Square is to transform Green Square into an attractive, vibrant and sustainable urban place by capitalising on the opportunities created by:

- (a) the area's strategic location between Sydney's most significant economic gateways: the Central Business District, Kingsford Smith Airport and Port Botany, and
- (b) the construction of the New Southern Railway and Green Square Railway Station.

(2) Four key concepts sustain this vision:

(a) **Diversity**

This applies to the development of a mix of land uses, a range of building types, diverse public spaces, and employment and housing choices, which will support a socially diverse community, underpinning a vibrant city that offers complex experiences and social contact.

(b) **Connectivity**

This applies to an accessible network of public spaces and public streets, which integrate existing and future landscapes and buildings.

(c) **Interdependency**

This applies to the need for compatibility between land uses, to the high quality urban design response of buildings to public spaces, the interdependency of the social and physical environment, and the relationship of the Green Square area to the City South Region.

(d) **Long-term growth**

This applies to the development of an urban strategy that can accommodate and support renewal and growth of Green Square into a compact sustainable urban area over a long period of time.

27B Planning principles for Green Square

The planning principles for Green Square are set out in Schedule 4. Those principles are underpinned by the key concepts of diversity, connectivity, interdependency and long-term growth.

The Council must take those principles into consideration before granting consent to any development within Green Square.

27C Determination of development applications

- (1) The Council must not grant consent for development of any land within Green Square unless:
 - (a) there is a masterplan adopted by the Council for the development site comprising that land or within which that land is situated, and
 - (b) the development is consistent with the masterplan.
- (2) The Council may waive the requirement for a masterplan because of the minor nature of the development concerned, the adequacy of other planning controls that apply to the proposed development, or for such other reasons as the Council considers sufficient.
- (3) If:
 - (a) the Council has waived the requirement for the masterplan under subclause (2), or
 - (b) a draft masterplan for the development site has been submitted to the Council for adoption, and that draft masterplan:
 - (i) has not been adopted by the Council before or within 60 days after the date on which the development application was lodged, or
 - (ii) has been rejected by the Council,

then subclause (1) does not apply, but when the Council assesses the development application it must have regard to the criteria in clause 27D (4) (a)–(l).

27D Preparation of masterplans

- (1) A draft masterplan may only be prepared by or on behalf of the owner or lessee of the land concerned.
- (2) The South Sydney Development Corporation may prepare a draft masterplan on behalf of the owners for the area shown in heavy red edging on the map marked “South Sydney Local Environmental Plan 1998 (Amendment No 2)—Green Square—Zoning”.
- (3) A draft masterplan should be prepared following consultation with the Council and any relevant public authorities or corporations.
- (4) A masterplan is to outline long-term proposals for the development of the land to which it applies, and illustrate and explain, where appropriate, the following:
 - (a) how those proposals address the vision for Green Square set out in clause 27A, the planning principles set out in Schedule 4, and any development control plan adopted for Green Square by the Council,
 - (b) design principles drawn from analysis of the site and its context,
 - (c) phasing of the development,
 - (d) distribution of land uses, including open space,
 - (e) pedestrian, cycle and vehicle access and circulation networks,
 - (f) parking provision,
 - (g) subdivision pattern,
 - (h) infrastructure provision,
 - (i) building envelope and built form controls,
 - (j) heritage conservation,
 - (k) site remediation,
 - (l) open space provision, its function and landscaping.

27E Consultation

- (1) Immediately after receiving a draft masterplan, the Council must advertise it in a newspaper circulating in the locality and exhibit it at the Council’s offices for

not less than 21 days for public comment.

- (2) The Council must take into account any written submissions made about the content of the draft plan during the exhibition period.

27F Adoption of masterplans

- (1) Following the exhibition of the draft masterplan, the Council may adopt it without variation, or adopt it with such variation made in response to submissions arising out of its exhibition as the Council considers appropriate, or reject it.
- (2) When a masterplan is adopted, the Council must advertise the adoption in a newspaper circulating in the locality.
- (3) A copy of the masterplan must be available for inspection at the Council's offices.

27G Amendment of masterplans

- (1) A masterplan may be amended.
- (2) The Council may request the preparation of a draft amendment for the purpose of keeping a masterplan up-to-date.
- (3) This Division applies to the amendment of a masterplan in the same way as it applies to the preparation of a masterplan.
- (4) A masterplan may be amended or replaced by a subsequent masterplan.

27H Masterplans may not implement certain planning standards

- (1) The Council may adopt a masterplan or an amendment of a masterplan even if the masterplan proposes development in accordance with planning standards that differ from those contained in a development control plan.
- (2) Before adopting such a masterplan or amendment, the Council must be satisfied that:
 - (a) a better development solution will result, and
 - (b) the land use mix proposed is consistent with the relevant zone objectives (including the desired mix of uses for the relevant zone), and
 - (c) the total floor space of all buildings within a development will not increase above that allowed by the development control plan as a result of the masterplan, and
 - (d) the total land available for public recreation areas within the site will not be

reduced below that required by a previous masterplan or amendment.

27I Application of zone objectives to masterplans

For the purposes of applying the requirements made by zone objectives and clause 27J to land to which a masterplan applies, and in particular for the purposes of assessment of the percentage of the non-residential component of a site, the Council needs only to be satisfied that the overall percentage of non-residential use will be achieved over the whole of the land to which a masterplan applies, irrespective of its distribution in relation to individual allotments comprising the masterplan site.

27J Non-residential development on development sites in Zones Nos 10 (b) and 10 (c)

- (1) Subject at all times to clause 27I, the Council must not grant consent to any development on land within Zone No 10 (b) until it is satisfied that no more than 25% of the total floor space proposed for a development site will be available for non-residential development.
- (2) Subject at all times to clause 27I, the Council must not grant consent to any development on land within Zone No 10 (c) until it is satisfied that at least 25% of the total floor space proposed for a development site will be available for non-residential development.

27K Amusement centres in Green Square

Despite any other provision of this plan, in order to protect the amenity of the Green Square locality, consent may be granted for development for the purpose of amusement centres on land within Green Square only if the centres are ancillary to another use allowed in the zone applying to the land.

Division 3 Affordable housing at Green Square

27L Affordable housing aims and objectives

Because land values in Green Square may reasonably be expected to increase when land in the area is developed in accordance with this plan, development in Green Square is to provide different kinds of housing, including affordable housing, to ensure that households on very low to moderate incomes may live in the area.

Development in Green Square is to promote and retain a socially diverse residential population representative of all income groups.

27M Meanings of “affordable housing”, “affordable housing provisions” and

“total floor area”

In this Division:

affordable housing means rented housing occupied by very low, low and moderate income households provided and managed under the scheme provided by the Green Square Affordable Housing Development Control Plan adopted by the Council on 10 February 1999, and in accordance with the affordable housing principles.

The gross incomes of such households fall within the following ranges of percentages of the median household income for the time being for the Sydney Statistical Division according to the Australian Bureau of Statistics:

Very low income household	less than 50%
Low income household	50 or more but less than 80%
Moderate income household	80-120%

affordable housing provisions means the provisions of the Green Square Affordable Housing Development Control Plan, as adopted by the Council on 10 February 1999, setting out a scheme for the provision and management of affordable housing in the Green Square area in accordance with the affordable housing principles. Copies of the plan are available from the Council’s administrative offices.

total floor area means the total of the areas of each floor of a building. The area of each such floor is taken to be the area within the outer face of the external enclosing walls, but excluding:

- (a) columns, fins, sun control devices, awnings and other elements, projections or works outside the general lines of the outer face of the external walls (other than balconies comprising the minimum balcony area required by the Council, and excluding any additional area), and
- (b) the maximum ancillary car parking permitted by the Council and any associated internal vehicular and pedestrian access to that car parking, and
- (c) space for the loading and unloading of goods.

27N Affordable housing principles

The affordable housing principles are as follows:

- (a) affordable housing is to be provided and managed in the Green Square area so that a socially diverse residential population representative of all income groups is created and maintained,

- (b) affordable housing is to be made available to a mix of households on very low, low and moderate incomes,
- (c) affordable housing is to be rented to eligible households at an appropriate rate of gross household income,
- (d) dwellings provided for affordable housing are to be managed so as to maintain their continued use for affordable housing,
- (e) affordable housing is to consist of dwellings constructed to a standard which in the opinion of the Council is consistent with other dwellings in the Green Square area and with an average total floor area of not less than 100 square metres.

270 Matters for consideration by the Council

Before granting consent to any proposed development of land within Green Square in Zone No 10 (a), 10 (b), 10 (c) or 10 (d), the Council must take into consideration the aims and objectives of this Division, the affordable housing principles and the following:

- (a) the need for development to provide different kinds of housing, including affordable housing, to ensure that households on very low, low and moderate incomes may be able to afford to live in Green Square,
- (b) the impact of the proposed development on the existing mix and likely future mix of residential housing stock within Green Square.

27P Inclusion of affordable housing in a building

- (1) Before granting consent to the carrying out of development (other than subdivision) on land in Green Square within Zone No 10 (a), 10 (b), 10 (c) or 10 (d), the Council must be satisfied that not less than the following amount of total floor area to which the development application relates will be used for the purpose of affordable housing, in accordance with the affordable housing principles in this Division and the affordable housing provisions for Green Square:
 - (a) 3% of so much of that total floor area as is intended to be used exclusively for residential purposes, and
 - (b) 1% of so much of that total floor area as is not intended to be used exclusively for residential purposes, and
 - (c) if the percentage required to be provided would be insufficient to provide complete dwellings, such extra amount of that total floor area as may be necessary to provide complete dwellings having an average total floor area of at least 100 square metres.

- (2) It does not matter whether the total floor area concerned was in existence before, or is created after, the commencement of this Division, or whether the area concerned replaces a previously existing area.
- (3) Nothing prevents in a particular case the provision of some of the complete dwellings required by this Division to be provided for affordable housing and the provision of a proportion of the monetary contribution equivalent to make up for the rest of the complete dwellings.

27Q Contribution of money as an alternative to including affordable housing in a building

- (1) Clause 27P does not require the provision of affordable housing if the Council is satisfied that:
 - (a) a monetary contribution has been or will be provided, by or on behalf of the applicant for development consent, for use for the purpose of providing affordable housing within Green Square in accordance with the affordable housing principles and the affordable housing provisions, and
 - (b) the amount of the contribution has been calculated, in accordance with this clause and the affordable housing provisions, as equivalent to the value of the total floor area that would otherwise be required by this Division to be provided for use for affordable housing, except any extra amount of area included to provide complete dwellings in accordance with that clause.
- (2) Demolition of a building or a change in the use of land does not give rise to a claim for a refund of any amount that has been contributed under this clause for use for affordable housing.

27R Conditions on development consent to give effect to this Division

- (1) The Council may impose conditions on any consent for development for the purpose of achieving the affordable housing aims and objectives of this Division.
- (2) In particular, any such condition may be imposed to ensure that any affordable housing that is to be provided under this Division is provided in accordance with the affordable housing principles or that any monetary contribution that is elected or required to be provided for the purpose of any such affordable housing is provided in accordance with those principles.

27S Development exempted from affordable housing

This Division does not require the Council to ensure that affordable housing will be provided in the case of a development application seeking consent for development:

- (a) for residential purposes, if the proposed development will result in the creation

of less than 200 square metres of total floor area, or

- (b) for non-residential purposes, if the proposed development will result in the creation of less than 60 square metres of total floor area, or
- (c) for the purpose of public housing, or
- (d) for the purpose of affordable housing, if the applicant for consent is a community housing or non-profit organisation, or
- (e) for the purpose of community facilities, or
- (f) for the purpose of a public road, or a public utility undertaking or facility, and for no other purpose.

27T Provision of affordable housing where subsequent development occurs

A percentage of the total floor area to which a development application relates is not required to be provided under this Division for the purpose of affordable housing if the Council is satisfied that:

- (a) the total floor area is the same as or, because of redevelopment of a site, will replace an equivalent area that was the subject of a former development application granted consent after the commencement of this Division, and
- (b) the same percentage of that total floor area has already been provided for use for affordable housing as required by this Division, or a contribution has already been paid in relation to that floor area in accordance with the affordable housing provisions.

[7] Division 4

Insert before clause 28:

Division 4 **Miscellaneous**

[8] Schedule 1 Definitions

Insert in alphabetical order:

affordable housing means housing occupied by members of very low, low and moderate income groups that is provided and managed in accordance with the affordable housing principles and the Green Square Affordable Housing Development Control Plan adopted by the Council on 10 February 1999.

development site, within Green Square, means a site (or a grouping of sites) that was in common ownership at the date of commencement of Division 2 of Part 4, and for which a masterplan is required.

Green Square means the land shown coloured on the map marked “South Sydney Local Environmental Plan 1998 (Amendment No 2) Green Square Zoning”, except land identified as deferred matter on that map.

non-residential use, within Green Square, means a use not defined in this plan as a residential use.

residential use, within Green Square, means use for long-term residential accommodation and includes use for boarding houses, dwelling houses, dwellings used in conjunction with and attached to a building used or intended to be used for another use, and multiple dwellings.

[9] Schedule 1

Insert “or ‘South Sydney Local Environmental Plan 1998 (Amendment No 2)—Green Square—Heritage & Conservation’” after the words “marked ‘Heritage and Conservation’” wherever occurring in the definitions of **heritage conservation area** and **heritage item**.

[10] Schedule 1

Insert at the end of the definition of **the map**:

South Sydney Local Environmental Plan 1998 (Amendment No 2)—Green Square—Zoning

[11] Schedule 2 Heritage items

Insert the following items in alphabetical order of street name:

GS1	Botany Road	Waterloo	237-271	Waterloo Public School Group, including school residence, site landscaping and grounds
GS2	Bourke Street	Waterloo	903A	Sydney Water Site—Pumping Station Building, Valve House and Electricity Substation (No 18)
GS3	Bourke Street	Zetland	932-934	Former Fire Station
GS4	Bourke Street	Zetland	936-938	Green Square Hotel (formerly Zetland Hotel)
GS5	Bourke Street	Zetland	999-1011	Federation Terrace Group
GS6	Elizabeth Street	Waterloo	810-822	Federation warehouse (former Chubbs P/L) and Electricity Substation (No 110)

GS7	Elizabeth Street	Waterloo		Former Tram Shed
GS8	Elizabeth Street	Zetland	878	“Alencon”—2 Storey Victorian terrace house
GS9	Elizabeth Street	Zetland	934	Single storey weatherboard cottage
GS10	Epsom Road	Zetland	68-74	Electricity Substation (No 338), near Joynton Avenue
GS11	Hansard Street	Zetland	10-12	Gabled Victorian semi-detached terrace
GS12	Hansard Street	Zetland	15	Stone cottage with two storey rear extension
GS13	Hansard Street	Zetland	24	Free standing Victorian residence
GS14	Joynton Avenue	Zetland		Navy Stores/Landcom Site—Former Totaliser Building
GS15	Joynton Avenue	Zetland		Navy Stores/Landcom Site. Site vegetation: Figs and trees along Joynton Avenue frontage of the site
GS16	Joynton Avenue	Zetland		Avenue of trees along Joynton Avenue, between O’Dea Avenue and Cook Lane
GS17	Merton Street	Zetland	11-13	Victorian semi-detached residence
GS18	Portman Street	Zetland	2-8	“Elsie Terrace”—Terrace Group
GS19	Portman Street	Zetland	13-19	“Ada Terrace”—Terrace Group
GS20	Portman Street	Zetland	65-69	Gabled Terrace Group
GS21	Portman Street	Zetland	71-75	Gabled Terrace Group
GS22	Tilford Street	Zetland	37	Single storey Victorian cottage
GS23	South Dowling Street (ACI site)	Waterloo	807-851	ACI site—Facade of Building in north east corner of the site, South Dowling Street/Crescent Street (former storage building)
GS24	South Dowling Street (ACI site)	Waterloo	807-851	ACI site—Building in south east corner of the site, South Dowling Street/Lachlan Street (Former offices and warehouse known as the AGM Building)

GS25	South Dowling Street (ACI site)	Waterloo	807-851	ACI site—Building which addresses South Dowling Street (former Administrative Offices)
GS26	South Dowling Street (ACI site)	Waterloo	807-851	ACI site—Grissell Building, Brick Chimney, remnant machinery and site archaeology

[12] Schedule 4

Insert after Schedule 3:

Schedule 4 Planning principles for Green Square

(Clause 27B)

(1) Regional role

Development in Green Square is to contribute to the status of the area as an important commercial and residential location, strategically positioned between Port Botany, Kingsford Smith Airport and the Sydney CBD.

Development in Green Square is to promote a compact working and living environment to maximise the efficient use of resources and infrastructure provision.

Development in Green Square is to benefit, in a physical, social, economic and environmental manner, the existing communities within South Sydney and the people of the City South Region.

(2) Integrated planning and development

Planning and development in Green Square are to ensure that social, economic, environmental and urban design issues are considered together and with proper regard for their mutual and cumulative impacts. This principle of integration is to be reflected at all stages of the planning and development process—planning, implementation and evaluation.

The planning and development processes in Green Square are to take into account the impact and effect of development on the people of Green Square and the quality of the spaces in which they live and work and in which they become part of and contribute to successful urban communities.

(3) Public domain

Development is to define and contribute to the public domain so as to create a high quality physical setting for buildings, which is safe and accessible and can be enjoyed by residents and workers.

Development of the public domain is to enhance the integration between the precincts within Green Square and surrounding areas. A system of interconnected streets, pedestrian/bicycle networks and open space/waterway reserves and corridors is to provide the structural framework of this public domain. There are two main axes to this framework, formed by the E-W avenue linking Green Square Railway Station to South Dowling Street, and the N-S links providing the further connection to Moore Park.

Development is to promote a street pattern that reinforces and supplements the existing street pattern of some of the smaller blocks in Green Square and integrates functional and environmental demands.

Development is to facilitate the creation of a system of channels and ponds to improve storm and ground water management, and to develop a theme to enhance the public domain and image of Green Square.

(4) Urban form

Urban form in Green Square is to reflect its location in relation to transport nodes and existing residential precincts, be architecturally rich and diverse, achieve a high level of amenity, define and enhance the public domain and allow for mixed uses.

Development is to provide a variety of building types selected to complement the locality, landform and precinct character, and designed to be responsive to environmental conditions such as noise, orientation, aspect and air pollution.

Building form within specific blocks is to be articulated both in height and mass to provide interest, resolve urban design and environmental issues and satisfy other planning principles for Green Square.

Buildings are to be of high quality and adaptable to a variety of uses over time, to ensure their long life.

The integrity of heritage items, contributory buildings and significant landscape elements is to be protected and enhanced.

(5) Economic and community life

Development is to provide a variety of housing (including affordable housing) to accommodate a range of income groups and social diversity, increase housing choice and flexibility, encourage employment-based activities and contribute to the creation of a range of precincts with character.

Development in Green Square is to provide an appropriate proportion of affordable housing to ensure that very low to moderate income households can continue to live in Green Square.

Development in Green Square is to contribute to an integrated mixed-use development pattern (both vertical and horizontal) containing a wide range of housing and employment opportunities, combined with educational, recreational and cultural facilities.

Development is to facilitate the increase and diversity of employment opportunities, which are to be compatible with achieving a high quality mixed living and working environment.

Activities along the main street frontage are to enhance the public domain and enrich pedestrian activity. There must be adequate provision of a range of small scale retail and neighbourhood facilities, concentrated along major pedestrian routes and around public spaces.

Development is to recognise and enhance the existing residential communities within Green Square.

Development is to facilitate the timely provision of recreational and community facilities and public open space within Green Square, to support the increase in residents and workers. These facilities and amenities are to be integrated with the pattern of distribution of existing facilities and amenities within Green Square and surrounding areas.

Potential conflict between existing and future land uses is to be managed (by design and operational controls) so as to minimise the impacts of one on the other, and so that future development within Green Square can co-exist with land uses in adjoining land zoned industrial under this plan.

(6) Transport and access

Green Square Railway Station is to be established as a focus for inter-connecting transport facilities. Development in Green Square is to contribute to and support this function.

Development in Green Square is to promote the reduction of motor vehicle dependency and actively encourage the use of public transport, walking and cycling.

Integrated public domain improvements and pedestrian and cycle routes/facilities are to be provided throughout Green Square.

A barrier free environment for people with disabilities and mobility difficulties is to be created to ensure access equity.

Parking provision and management in Green Square is to acknowledge travel demand management principles, discourage excessive car ownership and usage levels by residents, and discourage car travel by commuters and other users. The location and intensity of development is to be oriented towards maximum potential

for use of public transport.

(7) Environmental performance

Development is to create a safe and comfortable environment for residents and workers in both the private and public space, by “best practice” design to ensure buildings and spaces achieve maximum environmental performance and minimum resources use.

Development is to be designed having regard to:

wind effect, reflectivity, noise attenuation, solar access and energy conservation, water conservation and re-use, stormwater management, use of recycled materials and waste reduction.

The development of the public domain and open spaces must contribute to greater bio-diversity, habitat protection and enhancement, and air and water quality.

(8) Quality of design

Buildings and the public domain are to be of a high quality in both design and materials. The public domain, being the network of public spaces, streets and squares, is to be designed as purposefully as the built form. Buildings are to support and be integrated into this public domain network to achieve coherence and purpose. Buildings are to be of a high quality, articulated both in height and mass.

(9) Implementation

Through the redevelopment process, development is to efficiently use the existing infrastructure within Green Square and provide new physical and social infrastructure.

Schedule 2 Amendment of other environmental planning instruments

(Clause 4 (b))

2.1 City of Sydney Planning Scheme Ordinance

Insert after clause 1:

1A Excluded land

This Ordinance does not apply to land to which *South Sydney Local Environmental Plan 1998* applies.

2.2 South Sydney Local Environmental Plan No 114 (Southern

Industrial and Rosebery/Zetland Planning Districts)

Insert after clause 2 (2):

- (3) This plan does not apply to land to which *South Sydney Local Environmental Plan 1998* applies.