

# Sydney Regional Environmental Plan No 24—Homebush Bay Area (1993 EPI 496)

[1993-496]



New South Wales

## Status Information

### Currency of version

Historical version for 1 September 2017 to 12 November 2020 (accessed 13 October 2024 at 21:28)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Deemed SEPP**

From 1 July 2009 this plan is taken to be a State environmental planning policy (see clause 120 of Schedule 6 to the [Environmental Planning and Assessment Act 1979](#)).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 September 2017

# Sydney Regional Environmental Plan No 24—Homebush Bay Area (1993 EPI 496)



New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	5
1 Name of plan .....	5
2 Land to which plan applies .....	5
3 Aims of this plan .....	5
4 Relationship to other planning instruments .....	6
5 Suspension of certain laws .....	6
6 Definitions .....	6
7 Adoption of model provisions .....	6
8 Transitional, savings etc .....	7
<b>Part 2 General provisions relating to development</b> .....	7
9 General requirement for development consent .....	7
9A, 9B (Repealed) .....	7
10 Consent authorities .....	7
11 Permissible uses .....	7
12 Planning objectives .....	8
13 Matters for consideration in determining development applications .....	9
14 Consultation with other public bodies .....	10
<b>Part 3 Special provisions relating to development</b> .....	10
15 Temporary uses .....	10
16 Master plans .....	11
16A Preparation, adoption and amendment of master plans .....	11

16B Master plans under section 18 of Sydney Olympic Park Authority Act 2001 .....	14
17 Master plans and development control plans—availability .....	14
18 Services .....	14
19 Floodprone land .....	15
20 Contaminated land .....	15
20A Acid sulfate soils .....	15
21 Development of major public facilities .....	16
<b>Part 4 Protection of the natural environment and heritage items .....</b>	<b>16</b>
22 Development in environmental conservation areas .....	16
23 Development near an environmental conservation area .....	17
24 Protection of heritage items and heritage conservation areas .....	18
25 Advertised development .....	20
26 (Repealed) .....	20
27 Development affecting places or sites of known or potential Aboriginal heritage significance .....	20
28 Development affecting known or potential historical archaeological sites of relics of non-Aboriginal heritage significance .....	21
29 Development in the vicinity of a heritage item .....	21
30 Development in heritage conservation areas .....	22
<b>Schedule 1 Relationship to other environmental planning instruments .....</b>	<b>22</b>
<b>Schedule 2 Definitions .....</b>	<b>23</b>
<b>Schedule 3 Development that does not require consent .....</b>	<b>27</b>
<b>Schedule 4 Heritage conservation areas .....</b>	<b>27</b>
<b>Schedule 5 Heritage items .....</b>	<b>27</b>
<b>Schedule 6 Potential historical archaeological sites .....</b>	<b>28</b>
<b>Schedule 7 Issues to be addressed in statements of environmental effects .....</b>	<b>28</b>
<b>Schedule 8 Newington Village and High Tech Business Park .....</b>	<b>30</b>

**Schedules 9, 10 (Repealed)** ..... 31

# Sydney Regional Environmental Plan No 24—Homebush Bay Area (1993 EPI 496)



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan is called *Sydney Regional Environmental Plan No 24—Homebush Bay Area*.

### 2 Land to which plan applies

This plan applies to land identified as the “Homebush Bay Area” on the *Homebush Bay Area Map*.

### 3 Aims of this plan

The aims of this plan are:

- (a) to define objectives for the Homebush Bay Area which encourage co-ordinated and environmentally sensitive development of the Homebush Bay Area, and
- (b) to guide and co-ordinate the development of the Homebush Bay Area, and
- (c) to replace planning instruments previously applying to the Homebush Bay Area with a simplified planning framework, and
- (d) to provide flexible development controls by allowing a wide mix of uses in the Homebush Bay Area, and
- (e) to provide for the preparation of detailed planning controls to complement the flexible controls in this plan, and
- (f) to facilitate the development and management of Sydney Olympic Park by the Sydney Olympic Park Authority based on:
  - (i) master plans (whether adopted by the Minister under this Plan or approved by the Minister under section 18 of the *Sydney Olympic Park Authority Act 2001*), and
  - (ii) other guidelines and management strategies adopted by the Sydney Olympic Park Authority for the management of Sydney Olympic Park, and

(g) (Repealed)

(h) to provide for public consultation in the planning and development of the Homebush Bay Area.

#### **4 Relationship to other planning instruments**

(1) This plan prevails to the extent of any inconsistency between this plan and any other environmental planning instrument which applies to land to which this plan applies, except the following:

*State Environmental Planning Policy No 55—Remediation of Land*

It does not matter whether the other instrument was made before, or is made on or after, the day on which this plan takes effect.

(1A) (Repealed)

(2) This plan repeals or amends the planning instruments listed in Schedule 1 as set out in that Schedule.

#### **5 Suspension of certain laws**

(1) Section 33 of the *Sydney Harbour Trust Act 1900* and any agreement or covenant do not apply to any development permitted under this plan to the extent necessary to enable the development to be carried out in accordance with this plan.

(2) Before this plan was made, the Governor approved of the making of this clause on the recommendation of the Minister made with the concurrence of the Minister administering the *Sydney Harbour Trust Act 1900*.

#### **6 Definitions**

(1) Certain terms used in this plan are defined in Schedule 2.

(2) References in this plan to maps and documents are to maps and documents deposited at the head office of the Department and copies of which are held at the Department's Sydney Region West office. Copies of the maps are also held at the offices of the Councils of Auburn, Canada Bay and Strathfield.

(3) Notes included in this plan do not form part of this plan.

#### **7 Adoption of model provisions**

(1) This plan adopts clauses 4 (except for the definition of **map**) and 35 of, and Schedule 1 to, the *Environmental Planning and Assessment Model Provisions 1980*.

(2) For the purposes of that adoption, references in those Provisions to a local environmental plan are taken to be references to this plan.

## **8 Transitional, savings etc**

This plan does not apply:

- (a) to an activity (within the meaning of Part 5 of the Act) in respect of which an application for approval was made to a determining authority, but was not determined, before the commencement of this plan, or
- (b) to any such activity which was approved by a determining authority before the commencement of this plan and which commences pursuant to that approval not later than 5 years after the commencement of this plan, or
- (c) to a development application which was made to a consent authority, but was not determined, before the commencement of this plan.

## **Part 2 General provisions relating to development**

### **9 General requirement for development consent**

All development within the Homebush Bay Area requires the consent of the consent authority, except development described in Schedule 3.

### **9A, 9B (Repealed)**

### **10 Consent authorities**

- (1) The relevant council is the consent authority for land in the Homebush Bay Area (including land/water interface development), except as provided by subclause (3), the Act and the [Sydney Olympic Park Authority Act 2001](#).
- (2) (Repealed)
- (3) The Minister for Transport has the function of determining all development applications for consent for water-based development.
- (4)-(7) (Repealed)

### **11 Permissible uses**

- (1) Development of land within the Homebush Bay Area may be carried out for any purpose that the consent authority considers to be consistent with any one or more of the planning objectives for the Homebush Bay Area.
- (2) The following development may be carried out, but only with development consent, on land shown coloured and described as “Residential”, “Village Centre” or “High Tech Business Park” on the map marked “*Sydney Regional Environmental Plan No 24—Homebush Bay Area—Amendment No 2—Map 1*”:
  - (a) subdivision, or

(b) development for the purposes of a building, work, place or land use specified in Schedule 8 in relation to the land concerned.

(3) In Schedule 8:

(a) terms used in that Schedule that are defined in the *Environmental Planning and Assessment Model Provisions 1980* have the same meanings as they have in those model provisions, and

(b) **solar generating work** means a device that captures solar energy for use on a site or for transferral to an electricity grid.

## 12 Planning objectives

The planning objectives for the Homebush Bay Area are as follows:

### **Regional Role and Land Use**

- (a) to promote development of major public facilities and other public facilities that will establish the Homebush Bay Area, and Sydney Olympic Park in particular, as a centre for hosting regional, State, national and international events,
- (b) to preserve and protect the Homebush Bay Area's regionally significant wetlands and woodlands in Sydney Olympic Park,
- (c) to promote a variety of types of development and land uses other than those referred to in paragraph (a) (for example, commercial, retail, industrial, residential, recreational, open space, institutional and tourism uses), but only if the type and scale of those uses do not prevent the use or reduce the attractiveness or suitability of the Homebush Bay Area, and Sydney Olympic Park in particular, for development referred to in paragraph (a),
- (d) to permit a range of ancillary development and land uses (for example, roads, parking areas, public transport, utility services, remediation of land, flood mitigation, drainage works, land filling, earthworks, clearing, site rehabilitation and dredging works),

### **Relationship to Surrounding Sites and Areas**

- (e) to integrate the Homebush Bay Area, and Sydney Olympic Park in particular, with the regional transport network, whether on land or water, including public transport systems, roads, cycleways and walkways,
- (f) to protect the Homebush Bay Area and land surrounding it from adverse effects resulting from the holding of major public events,

### **Quality and Nature of Urban Form**

- (g) to promote co-ordinated, sensitive and high quality development in the Homebush Bay Area through the adoption of overall guidelines for development relating to,



for example, urban design, landscaping and signage,

- (h) to promote ecologically sustainable development,
- (i) to take advantage of the proximity of the Homebush Bay Area to the Parramatta River and Homebush Bay by encouraging development that preserves and improves views from and of the waterfront and to enhance public access to those waterways and waterfront areas, while protecting flora and fauna habitats,

#### **Environmental and Heritage Protection**

- (j) to protect sensitive natural environments, such as wetlands, woodlands and grasslands/wetlands (as shown on the map marked "*Homebush Bay Area—Environmental Conservation Areas Map*"), by identifying environmental conservation areas and ensuring that the ecological significance of these areas is not reduced,
- (k) to identify and protect heritage items, heritage conservation areas and potential historical archaeological sites and ensure that development is sympathetic to them,
- (l) to enable the habitat of birds protected under international agreements for the protection of migratory birds to be conserved.

### **13 Matters for consideration in determining development applications**

In determining a development application, the consent authority must (in addition to considering the other matters required to be considered by section 79C of the Act) consider such of the following matters as are of relevance to the development the subject of the application:

- (a) any relevant master plan prepared for the Homebush Bay Area,
- (b) any development control plans prepared for the land to which the application relates,
  - (b1) to the extent to which it applies to land within Sydney Olympic Park, the "Environmental Guidelines" within the meaning of the *Sydney Olympic Park Authority Act 2001* and any plan of management referred to in section 34 of that Act,
- (c) the appearance, from the waterway and the foreshores, of the development,
  - (c1) the impact of the development on significant views,
- (d) the effect of the development on drainage patterns, ground water, flood patterns and wetland viability,
- (e) the extent to which the development encompasses the principles of ecologically sustainable development,

- (f) the impact of carrying out the development on environmental conservation areas and the natural environment, including flora and fauna and the habitats of the species identified in international agreements for the protection of migratory birds,
- (g) the impact of carrying out the development on heritage items, heritage conservation areas and potential historical archaeological sites,
- (h) the views of the public and other authorities which have been consulted by the consent authority under this plan,
- (i) the issues listed in Schedule 7.

#### **14 Consultation with other public bodies**

- (1) Within 14 days of receipt of a development application, the consent authority must seek the views on the proposed development of the following:
  - (a) the Sydney Olympic Park Authority in relation to development applications:
    - (i) that are on or immediately adjoin land vested in that Authority, or
    - (ii) that are on land having a site area of 10,000 square metres or more or that have a proposed floor space of 20,000 square metres or more, or
    - (iii) that, in the opinion of the consent authority, are likely to have a significant impact on land vested in that Authority,
  - (b) the council of the local government area in which it is proposed the development will be carried out (if it is not the consent authority),
  - (b1) the council of each local government area adjoining the local government area in which it is proposed the development will be carried out if, in the opinion of the consent authority, the development proposed could have a significant impact on that local government area.
  - (c)-(e) (Repealed)
- (2) The consent authority must not determine the application until:
  - (a) the views of the public or other authorities consulted have been received, or
  - (b) a period of 21 days has elapsed since those views were sought,whichever occurs first.

### **Part 3 Special provisions relating to development**

#### **15 Temporary uses**

- (1) The consent authority may consent to any use of a site which is not consistent with

the planning objectives for the Homebush Bay Area for a limited period if the consent authority is satisfied the use will not prejudice the eventual development of the Homebush Bay Area in accordance with the rest of this plan.

- (2) The consent authority must, before granting consent to such a use, be satisfied that:
  - (a) appropriate arrangements have been made for the reinstatement of the site after its use in accordance with the consent so that it may be used in accordance with the rest of this plan, and
  - (b) the use will be limited to such period as the consent authority stipulates, and
  - (c) the use will not adversely affect any existing use or permissible development in accordance with this plan on other sites within the Homebush Bay Area, and
  - (d) the use will not have any detrimental effects on the natural environment.

## **16 Master plans**

- (1) Development consent must not be granted for development on land edged red on the map marked “*Sydney Regional Environmental Plan No 24—Homebush Bay Area—Amendment No 2—Map 4*” unless:
  - (a) there is a master plan for the subject land, and
  - (b) the consent authority has taken the master plan into consideration, and
  - (c) the development is consistent with the master plan,except as provided by this clause.
- (2) The Minister may waive compliance with the requirements of this clause because of the minor nature of the development concerned, the adequacy of the planning controls that apply to the proposed development or for such other reason as the Minister considers sufficient.
- (3) (Repealed)

## **16A Preparation, adoption and amendment of master plans**

- (1) A draft master plan for the land referred to in clause 16, or any part of that land, may be prepared by or on behalf of the owner or lessee of the land concerned or the Director-General.
- (2) A draft master plan prepared by an owner or lessee should be prepared following consultation with the Director-General and is to illustrate and explain, where appropriate in relation to the land, proposals for the following:
  - (a) design principles drawn from an analysis of the site and its context,

- (b) phasing of development,
  - (c) distribution of land uses including foreshore public access and open space,
  - (d) pedestrian, cycle and road access and circulation networks,
  - (e) parking provision,
  - (f) subdivision pattern,
  - (g) infrastructure provision,
  - (h) building envelopes and built form controls,
  - (i) heritage conservation, implementing the guidelines set out in any applicable conservation policy, and protection of archaeological relics,
  - (j) remediation of the site,
  - (k) provision of public facilities,
  - (l) provision of open space, its function and landscaping,
  - (m) the protection of the environment, in particular as regards such part of the site as is or forms part of:
    - (i) a reserve under the *National Parks and Wildlife Act 1974*, or
    - (ii) an aquatic reserve or critical habitat under Part 7 or 7A of the *Fisheries Management Act 1994*, or
    - (iii) critical habitat under the *Threatened Species Conservation Act 1995*, or
    - (iv) an item of the environmental heritage or conservation area (however described) under any environmental planning instrument, or
    - (v) a heritage item under the *Heritage Act 1977*,
  - (n) any other matter specified by the Director-General.
- (3) To the extent to which it applies to land within Sydney Olympic Park, a draft master plan must be consistent with the plan of management for the Millennium Parklands under Division 3 of Part 4 of the *Sydney Olympic Park Authority Act 2001*.

**Note—**

To each master plan prepared for Sydney Olympic Park under this clause, subclause (3) extends a requirement that applies to a master plan prepared for Sydney Olympic Park under section 18 of the *Sydney Olympic Park Authority Act 2001*.

- (4) If a draft master plan is prepared by or on behalf of the Director-General, the Director-General is required to consult with the owner or lessee of the land concerned.

- (5) A draft master plan must be submitted to the Minister for adoption.
- (6) The Director-General may recommend that a draft master plan be adopted without any variations or that it be adopted with such variations as the Director-General considers appropriate.
- (7) When submitted to the Minister:
  - (a) the draft master plan is to be advertised in a newspaper circulating throughout the State and in the locality and is to be exhibited for not less than 21 days for public comment, and
  - (b) copies of the draft master plan are to be given to each council whose local government area includes the land to which the plan applies or any other land that, in the opinion of the Director-General, is likely to be affected by the proposals contained in the plan.
- (8) In considering a draft master plan, the Minister:
  - (a) must take into account:
    - (i) any written submissions made about the content of the draft master plan during the exhibition period, and
    - (ii) the views of the relevant council, and
  - (b) to the extent to which it applies to land within Sydney Olympic Park, must consider whether the plan is consistent with the “*Environmental Guidelines*” within the meaning of the [Sydney Olympic Park Authority Act 2001](#).

**Note—**

To each master plan prepared for Sydney Olympic Park under this clause, subclause (8) (b) extends a requirement that applies to a master plan prepared for Sydney Olympic Park under section 18 of the [Sydney Olympic Park Authority Act 2001](#).

- (9) A draft master plan becomes a master plan if it is adopted by the Minister.
- (10) When a master plan is adopted, the Director-General must advertise the adoption of the master plan in a newspaper circulating in the locality.
- (11) A master plan may be amended by a master plan.
- (12) An amendment to a master plan may be dealt with concurrently with a development application.
- (13) A copy of each master plan must be available for inspection free of charge at the head office, and the Sydney Region West office, of the Department.

### **16B Master plans under section 18 of *Sydney Olympic Park Authority Act 2001***

- (1) This clause applies to a master plan prepared under section 18 of the *Sydney Olympic Park Authority Act 2001*.
- (2) When submitted to the Minister for approval, as referred to in section 18 (4) of the *Sydney Olympic Park Authority Act 2001*:
  - (a) the draft master plan is to be advertised in a newspaper circulating throughout the State and in the locality and is to be exhibited for not less than 21 days for public comment, and
  - (b) copies of the draft master plan are to be given to each council whose local government area includes the land to which the plan applies or any other land that, in the opinion of the Director-General, is likely to be affected by the proposals contained in the plan.
- (3) The Minister must take into account:
  - (a) any written submissions made about the content of the draft master plan during the exhibition period, and
  - (b) the views of the relevant council.
- (4) A master plan that has been approved by the Minister, as referred to in section 18 (4) of the *Sydney Olympic Park Authority Act 2001* has the same effect as a master plan adopted by the Minister under clause 16A if, and only if, it complies with the requirements of clause 16A (2).
- (5) The document prepared by the Sydney Olympic Park Authority, entitled *Draft Sydney Olympic Park Post-Olympic Master Plan* and dated January 2002 is taken to be a draft master plan submitted to the Minister under subclause (2).

### **17 Master plans and development control plans—availability**

Copies of each master plan and development control plan relating to land within the Homebush Bay Area, as in force for the time being, must be available for public inspection without charge and during ordinary office hours at:

- (a) the head office and the Sydney Region West office of the Department, and
- (b) the office of the Sydney Olympic Park Authority, and
- (c) the office of each council of a local government area any part of which is within the Homebush Bay Area.

### **18 Services**

Before granting consent, the consent authority must be satisfied that development will

not commence until arrangements, which are satisfactory to servicing agencies it considers relevant, have been made for the supply of services such as water, sewerage, gas, electricity and drainage.

## **19 Floodprone land**

Before granting consent to the carrying out of development on land in the vicinity of Haslam's Creek defined as floodprone on the latest of any appropriate plan or report adopted for the time being by the consent authority for the purposes of this clause, the consent authority must consider:

- (a) the findings and recommendations of that report, and
- (b) the impact of the proposed development on flood flows and whether compensatory works should be provided, and
- (c) if landfilling is involved, whether any compensatory flood storage or other flood mitigation works should be provided, and
- (d) the impact of the development on the ecological significance of Haslam's Creek and Homebush Bay and their associated wetlands and any measures proposed to minimise any adverse impact, such as the provision of compensatory wetland habitats.

## **20 Contaminated land**

Before granting consent to the carrying out of development within the Homebush Bay Area, the consent authority must be satisfied that:

- (a) adequate steps have been taken to identify whether the land the subject of the development is contaminated and, if so, whether remedial action needs to be taken, and
- (b) (Repealed)
- (c) where land to be remediated contains or adjoins land which contains remnants of the natural vegetation, consideration has been given to reinstatement on the land of vegetation of the same kind in a way which will enhance the remaining natural vegetation.

## **20A Acid sulfate soils**

- (1) Despite clause 35 of, and Schedule 1 to, the *Environmental Planning and Assessment Model Provisions 1980* adopted by this plan, development (not being exempt development or complying development) that is likely to result in the disturbance of more than one tonne of soil, or to lower the water table, on land on which acid sulfate soils are present may be carried out only with development consent.
- (2) Before granting a consent required by this clause, the consent authority must

consider:

- (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with 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, and
  - (b) the likelihood of the proposed development resulting in the discharge of acid waters, and
  - (c) any comments received from the Department of Land and Water Conservation within 21 days of the consent authority having sent that Department a copy of the development application and of the related acid sulfate soils management plan.
- (3) Consent for development referred to in this clause is required despite clause 10 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development*.

## **21 Development of major public facilities**

Before granting consent to development of any land for the purpose of a major public facility, the consent authority:

- (a) must ensure that the development proposal has been dealt with in accordance with section 79A of the Act as advertised development, and
- (b), (c) (Repealed)
- (d) must assess whether the use of the major public facility will have an adverse impact on adjacent sites in the Homebush Bay Area or on surrounding land.

## **Part 4 Protection of the natural environment and heritage items**

### **22 Development in environmental conservation areas**

- (1) This clause applies to land within an environmental conservation area.
- (2) The consent authority must not consent to the carrying out of development in an environmental conservation area if, in the opinion of the consent authority, that development would reduce significantly the ecological value of that environmental conservation area.
- (3) A person must not fill, clear, drain or dredge any land to which this clause applies, construct a levee on any such land, or remove or destroy vegetation on any such land, except with the consent of the consent authority.
- (4) (Repealed)
- (5) Before granting consent to the carrying out of development on land to which this



clause applies, the consent authority:

- (a) must ensure that the development proposal has been dealt with in accordance with section 79A of the Act as advertised development, and
- (b) may refuse to grant the application unless, in the opinion of the consent authority, the issues listed in Schedule 7 of relevance to the proposed development have been adequately addressed, and
- (c) must take into account:
  - (i) the recommendations of the *Millennium Parklands Concept Plan* prepared by Hassell Pty Ltd and dated December 1997, a copy of which is available for inspection at the head office, and the Sydney Region West office, of the Department, and
  - (ii) the development consent (reference number S/38/3/98) granted by the Minister in relation to the development of the Millennium Parklands, and
- (d) must consider whether the development is consistent with:
  - (i) the SOPA Frog Management Plan, and
  - (ii) any relevant master plan, and
  - (iii) to the extent to which it applies to land within Sydney Olympic Park, any plan of management adopted by the Sydney Olympic Park Authority in accordance with the [Sydney Olympic Park Authority Act 2001](#).

### **23 Development near an environmental conservation area**

In considering an application for consent to the carrying out of development within 30 metres (or, in the case of the North Newington woodland area, 200 metres) of an environmental conservation area, the consent authority:

- (a) must take into account:
  - (i) the effect of the proposed development on the environmental conservation area, and
  - (ii) the recommendations of the *Millennium Parklands Concept Plan* prepared by Hassell Pty Ltd and dated December 1997, a copy of which is available for inspection at the head office, and the Sydney Region West office, of the Department, and
  - (iii) the development consent (reference number S/38/3/98) granted by the Minister in relation to the development of the Millennium Parklands, and
- (b) must consider whether the development is consistent with:

- (i) the SOPA Frog Management Plan, and
- (ii) any relevant master plan, and
- (iii) to the extent to which it applies to land within Sydney Olympic Park, any plan of management adopted by the Sydney Olympic Park Authority in accordance with the *Sydney Olympic Park Authority Act 2001*.

## **24 Protection of heritage items and heritage conservation areas**

- (1) **When is consent required?** The following development may be carried out only with development consent:
- (a) demolishing or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area,
  - (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area by making structural or non-structural changes to its exterior, such as to its detail, fabric, finish or appearance,
  - (c) altering a heritage item by making structural changes to its interior,
  - (d) disturbing or excavating a place of Aboriginal heritage significance or an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
  - (e) moving the whole or a part of a heritage item,
  - (f) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.
- (2) **What exceptions are there?** Development consent is not required by this clause if:
- (a) in the opinion of the consent authority:
    - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item or of a building, work, archaeological site, tree or place within a heritage conservation area, and
    - (ii) the proposed development would not adversely affect the significance of the heritage item or heritage conservation area, and
  - (b) the proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.

- (3) Development consent is not required by this clause for the following development in a cemetery or burial ground if there will be no disturbance to human remains, to relics in the form of grave goods or to a place of Aboriginal heritage significance:
- (a) the creation of a new grave or monument, or
  - (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.
- (4) **What must be included in assessing a development application?** Before granting a consent required by this clause, the consent authority must assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

**Note—**

The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, *Statements of Heritage Impact*).

- (5) **What extra documentation is needed?** The assessment must include consideration of a **heritage impact statement** that addresses at least the issues set out in subclause (6) (but is not to be limited to assessment of those issues, if the heritage significance concerned involves other issues). The consent authority may also decline to grant such a consent until it has considered a **conservation management plan**, if it considers the development proposed should be assessed with regard to such a plan.
- (6) The minimum number of issues that must be addressed by the heritage impact statement are:
- (a) for development that would affect a **heritage item**:
    - (i) the heritage significance of the item as part of the environmental heritage of the Homebush Bay Area, and
    - (ii) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features, and
    - (iii) the measures proposed to conserve the heritage significance of the item and its setting, and
    - (iv) whether any archaeological site or potential historical archaeological site would be adversely affected by the proposed development, and
    - (v) the extent to which the carrying out of the proposed development would affect the form of any historic subdivision, and
  - (b) for development that would be carried out in a **heritage conservation area**:

- (i) the heritage significance of the heritage conservation area and the contribution which any building, work, relic, tree or place affected by the proposed development makes to this heritage significance, and
- (ii) the impact that the proposed development would have on the heritage significance of the heritage conservation area, and
- (iii) the compatibility of any proposed development with nearby original buildings and the character of the heritage conservation area, taking into account the size, form, scale, orientation, setbacks, materials and detailing of the proposed development, and
- (iv) the measures proposed to conserve the significance of the heritage conservation area and its setting, and
- (v) whether any landscape or horticultural features would be affected by the proposed development, and
- (vi) whether any archaeological site or potential historical archaeological site would be affected by the proposed development, and
- (vii) the extent to which the carrying out of the proposed development in accordance with the consent would affect any historic subdivision pattern, and
- (viii) the issues raised by any submission received in relation to the proposed development in response to the notification or advertising of the application.

## **25 Advertised development**

Development is advertised development if it comprises or includes the demolition of a heritage item or a building, work, tree or place in a heritage conservation area.

## **26 (Repealed)**

## **27 Development affecting places or sites of known or potential Aboriginal heritage significance**

Before granting consent for development that is likely to have an impact on a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or that will be carried out on an archaeological site of a relic that has Aboriginal heritage significance, the consent authority must:

- (a) consider a heritage impact statement explaining how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site, and
- (b) except where the proposed development is integrated development, notify the local Aboriginal communities (in such way as it thinks appropriate) of its intention to do so

and take into consideration any comments received in response within 21 days after the relevant notice is sent, and

- (c) be satisfied that any necessary excavation permit required by the *Heritage Act 1977* has been granted.

**28 Development affecting known or potential historical archaeological sites of relics of non-Aboriginal heritage significance**

- (1) Before granting consent for development that will be carried out on an archaeological site or a potential historical archaeological site of a relic that has non-Aboriginal heritage significance (whether or not it is, or has the potential to be, also the site of a relic of Aboriginal heritage significance), the consent authority must:
  - (a) consider a heritage impact statement explaining how the proposed development will affect the conservation of the site and any relic known or reasonably likely to be located at the site, and
  - (b) be satisfied that any necessary excavation permit required by the *Heritage Act 1977* has been granted.
- (2) This clause does not apply if the proposed development:
  - (a) does not involve disturbance of below-ground deposits and the consent authority is of the opinion that the heritage significance of any above-ground relics would not be adversely affected by the proposed development, or
  - (b) is integrated development.

**29 Development in the vicinity of a heritage item**

- (1) Before granting consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item and of any heritage conservation area within which it is situated.
- (2) This clause extends to development:
  - (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
  - (b) that may undermine or otherwise cause physical damage to a heritage item, or
  - (c) that will otherwise have any adverse impact on the heritage significance of a heritage item or of any heritage conservation area within which it is situated.
- (3) The consent authority may refuse to grant any such consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage

item.

- (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.

### **30 Development in heritage conservation areas**

- (1) Before granting consent for the erection of a building within a heritage conservation area, the consent authority must be satisfied that the features of the proposed building will be compatible with the heritage significance of the heritage conservation area, having regard to the form of, and materials used in, buildings that contribute to the heritage significance of the heritage conservation area.
- (2) In satisfying itself about those features, the consent authority must have regard to at least the following (but is not to be limited to having regard to those features):
  - (a) the pitch and form of the roof (if any),
  - (b) the style, size, proportion and position of the openings for windows or doors (if any),
  - (c) the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building,
  - (d) the landscaped area of the site.

## **Schedule 1 Relationship to other environmental planning instruments**

(Clause 4)

- 1** *Auburn Local Environmental Plan 2010* does not apply to the land to which this plan applies.
- 2** The following environmental planning instruments are repealed:
  - *Sydney Regional Environmental Plan No 4—Homebush Bay*
  - *Sydney Regional Environmental Plan No 24—Homebush Bay Development Area* (published in the Gazette on 29 June 1990)
  - *Interim Development Order No 22—Municipality of Auburn*
  - *Auburn Local Environmental Plan No 18*
  - *Auburn Local Environmental Plan No 31*
  - *Auburn Local Environmental Plan No 32*

### **3 (Repealed)**

## Schedule 2 Definitions

(Clause 6)

**alter**, in relation to a heritage item or to a building or work within a heritage conservation area, means:

- (a) make structural changes to the outside of the heritage item, building or work, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work, but not including non-structural changes resulting from maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work.

**archaeological site** means the site of one or more relics.

**clear**, in relation to land, means the destruction of, or removal in any manner of, trees, saplings, seedlings or shrubs growing on the land, but does not include:

- (a) the control of weeds declared to be noxious by order pursuant to section 7 of the *Noxious Weeds Act 1993*, by means not likely to be significantly detrimental to the native ecosystem, or
- (b) the incidental destruction or removal of native plants growing adjacent to any such noxious weeds.

**conservation management plan** means a document prepared in accordance with the requirements of the NSW Heritage Office that establishes the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

**contaminated land** means land, which, by reason of its being affected by a chemical or other waste, the consent authority considers is unsafe or unfit for habitation or occupation by persons or animals, or is otherwise environmentally degraded.

**demolish** a heritage item, or a building, work, archaeological site, tree or place within a heritage conservation area, means to wholly or partly destroy, dismantle or deface the heritage item or the building, work, archaeological site, tree or place.

**ecological plan of management** means the latest document bearing that title prepared for the Sydney Olympic Park Authority or the Australian Department of Defence for the purpose of managing environmental conservation areas, particularly in relation to natural communities including flora and fauna habitats.

**ecologically sustainable development** means development which uses, conserves and enhances the community's resources so that ecological processes, on which life depends, are maintained and the total quality of life, now and in the future, can be increased.

**environmental conservation area** means an area shown in a distinctive manner on the map marked "*Homebush Bay Area—Environmental Conservation Areas Map*".

**grasslands/wetlands** means open areas within an environmental conservation area containing grasses and herbs, whether native or introduced in origin, and includes wet grasslands featuring *Paspalum paspalodes* and other floating vegetation, shown in a distinctive manner as grasslands/

wetlands on the map marked “*Homebush Bay Area—Environmental Conservation Areas Map*”.

**heritage conservation area** means an area of land that is described in Schedule 4 and shown in a distinctive manner on the map marked “*Homebush Bay Area—Heritage and Conservation Areas Map*” and includes buildings, works, archaeological sites, trees and places and situated on or within the land.

**heritage impact statement** means a document consisting of a statement demonstrating the heritage significance of a heritage item or heritage conservation area, or of a building, work, archaeological site, tree or place within a heritage conservation area, an assessment of the impact that proposed development will have on that significance and proposals for measures to minimise that impact.

**heritage item** means a building, work, archaeological site or place specified in Schedule 5 and identified as a heritage item in a distinctive manner on the map marked “*Homebush Bay Area—Heritage and Conservation Areas Map*”.

**Heritage Items Site Identification Manual** means the document bearing that title prepared by the Department, as updated from time to time.

**heritage significance** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

**Homebush Bay Area Map** means the map marked “*Sydney Regional Environmental Plan No 24—Homebush Bay Area Land Application Map*”, as amended by the maps marked as follows:

*Sydney Regional Environmental Plan No 24—Homebush Bay Area Land Application Map*  
(SREP\_24\_HBA\_LAP\_001\_006\_20130814)

**international agreements for the protection of migratory birds** means the agreements, as from time to time in force, between the Australian Government and the Governments of Japan and the People’s Republic of China for the protection of migratory birds in danger of extinction and their environments.

**land/water interface development** means development for the purpose of any one or more of the following:

- (a) boardwalks,
- (b) boating industry facilities,
- (c) boat launching ramps,
- (d) marinas,
- (e) public water transport facilities,
- (f) water based restaurants and entertainment facilities,
- (g) water recreational facilities.

**maintenance** means the ongoing protective care of a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area. It does not include alterations,



such as carrying out extensions or additions, or the introduction of new materials or technology.

**major public facilities** are facilities, not including roads, which are capable of accommodating, or being used in conjunction with, public events (such as sporting events, entertainment, leisure activities, recreational activities, exhibitions and conferences) that, in the opinion of the consent authority, are likely to attract over 5,000 people at the one time.

**North Newington woodland area** means Eucalypt forests and the adjacent casuarina woodland, shown in a distinctive manner as woodlands on the map marked “*Homebush Bay Area—Environmental Conservation Areas Map*”.

**Parramatta River Foreshores and Waterways Planning and Development Advisory Committee** means the committee constituted under [Sydney Regional Environmental Plan No 22—Parramatta River](#).

**place of Aboriginal heritage significance** means:

- (a) a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

**potential historical archaeological site** means a site:

- (a) that is specified in Schedule 6 and identified as such in a distinctive manner on the map marked “*Homebush Bay Area—Heritage and Conservation Areas Map*”, or
- (b) that, in the opinion of the consent authority, has the potential to be an historical archaeological site, even if it is not so specified.

**potential place of Aboriginal heritage significance** means a place that, in the opinion of the consent authority, has the potential to have Aboriginal heritage significance.

**public facilities** are facilities which are capable of accommodating, or being used in conjunction with, public events (such as sporting events, entertainment, leisure activities, recreational activities, exhibitions and conferences).

**relic** means:

- (a) any deposit, object or material evidence (which may consist of human remains) that is more than 50 years old relating to the use or settlement, not being Aboriginal habitation, of the Homebush Bay Area and that is a fixture or is wholly or partly within the ground, or
- (b) any deposit, object or material evidence (which may consist of human remains) of any age relating to Aboriginal habitation of the Homebush Bay Area.

**remediation of land** means:

- (a) removing the cause of contamination from land, or
- (b) reducing contamination of land, or
- (c) eliminating or reducing any danger arising from the contamination of land, or
- (d) rehabilitating land.

**SOPA Frog Management Plan** means the document published by the Sydney Olympic Park Authority under the title *SOPA Frog Management Plan—Frog Management Plan for the Green and Golden Bell Frog*, as in force from time to time, copies of which are available for inspection at the offices of the Sydney Olympic Park Authority.

**Sydney Olympic Park** means the land described in Schedule 1 to the [Sydney Olympic Park Authority Act 2001](#).

**Sydney Olympic Park Authority** means the Sydney Olympic Park Authority constituted by the [Sydney Olympic Park Authority Act 2001](#).

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

**water based development** means development for the purpose of any one or more of the following:

- (a) aids to navigation,
- (b) aviation facilities,
- (c) boat lifts,
- (d) charter or tourism boating facilities,
- (e) commercial port facilities,
- (f) dredging (except for dredging associated with remediation of land),
- (g) flora or fauna enclosures,
- (h) houseboats,
- (i) maintenance dredging,
- (j) moorings,
- (k) reclamation,
- (l) sea walls,
- (m) shore-related moorings,
- (n) slipways,
- (o) swimming enclosures,
- (p) wharves, jetties or pontoons.

**wetlands** means land within an environmental conservation area which is permanently or intermittently wet with fresh or tidal water which supports wetland vegetation and fauna and which is shown in a distinctive manner as wetlands on the map marked “*Homebush Bay Area—Environmental Conservation Areas Map*”.

**wetland vegetation** means vegetation which includes, but is not limited to, mangroves, forests, saltmarshes, rushbeds and cumbungi beds.

### **Schedule 3 Development that does not require consent**

(Clause 9)

Development described in Schedule 1 to the [Environmental Planning and Assessment Model Provisions 1980](#).

### **Schedule 4 Heritage conservation areas**

(Clauses 7, 12, 13, 24, 25, 26, 27 and Schedule 2)

#### **State Abattoirs heritage conservation area (Area No 1)**

The area bounded by Herb Elliott Avenue, Showground Road, Dawn Fraser Avenue and the Railway Garden, containing the Avenue of Palms, administration building precinct and landscaped gardens.

#### **Silverwater Prison Complex heritage conservation area (Area No 4)**

The area identified in the Heritage Items Site Identification Manual containing the heritage items 1 to 8 inclusive.

### **Schedule 5 Heritage items**

(Clauses 12, 13, 24, 25, 26, 27 and Schedule 2)

#### **State Abattoir locality**

Items identified in the Heritage Items Site Identification Manual and known as:

- |        |   |
|--------|---|
| Item 1 | The Vernon Buildings, the Maiden Gardens and the Railway Garden within the Historic Abattoir Administration Precinct, bounded by Herb Elliott Avenue, Showground Road, Dawn Fraser Avenue and the Railway Garden. |
| Item 2 | The Avenue of Palms.  |

#### **Millennium Parklands Heritage Precinct**

The collection of buildings, structures, relics and landforms constructed by the Royal Australian Navy as an armaments depot during the 19th and 20th centuries, together with the rare river edge wetlands and the Cumberland Plain woodland area, to the extent to which they are:

- Item A
- (a) situated on land identified on the map marked “*Sydney Regional Environmental Plan No 24—Homebush Bay Area—Amendment No 2—Map 3*”, and
  - (b) described in the document entitled *Millennium Parklands Heritage Precinct Conservation Master Plan 2001*, prepared by Graham Brooks and Associates, copies of which are available for inspection at the head office, and the Sydney Region West office, of the Department.

### **Other**

- Item 87            Explosives Store

### **Silverwater Prison Complex locality**

Items identified in the Heritage Items Site Identification Manual and known as:

- Item 1            Newington House
- Item 2            St. Augustine’s Chapel
- Item 3            Irwin House
- Item 4            Margaret Catchpole Building
- Item 5            Caroline Chisholm Building
- Item 6            Former Superintendent’s Residence
- Item 7            Former Ward Block
- Item 8            Former Engineer’s House

## **Schedule 6 Potential historical archaeological sites**

(Clauses 12, 13, 27, 28 and Schedule 2)

### **Silverwater Prison Complex site (Site No 2)**

The area identified in the Heritage Items Site Identification Manual containing the heritage items 1 to 8 inclusive.

## **Schedule 7 Issues to be addressed in statements of environmental effects**

(Schedule 2)

### **Part 1 Statements relating to development of major public facilities**

Each of the following issues and any additional relevant issues required to be considered by section 79C of the Act:

- The extent to which the proposal is consistent with the latest transport strategy prepared for the Sydney Olympic Park Authority.
- The adequacy of and arrangements for the following:
  - (a) parking provision for the servicing of the facility,
  - (b) access to and egress from the site, on-site parking, loading and manoeuvring of buses and coaches,
  - (c) the regulation of the arrival and dispersal of vehicles, including buses and trucks.
- Measures to be taken to minimise noise impact on surrounding land uses caused by use of the facility.
- Potential vandalism and arrangements and measures to be taken to minimise it.
- Any plan of management which has been prepared relating to matters raised in the statement of environmental effects to deal with management of the site of a major public facility. (Such a plan of management should address measures to be taken to:
  - (a) control crowd movement,
  - (b) promote the use of public transport,
  - (c) minimise vandalism to adjacent facilities,
  - (d) facilitate traffic flow and avoid road congestion within the Homebush Bay Area and the surrounding land, and
  - (e) minimise noise impact on land adjoining the site.)
- The extent to which the proposal is consistent with any guidelines for development prepared for the Sydney Olympic Park Authority in respect of the Homebush Bay Area.
- The landscaping of the site and its consistency with any such guidelines for development.

## **Part 2 Statements relating to development within environmental conservation areas**

Each of the following issues and any additional relevant issues required to be considered by section 79C of the Act:

- The environmental effect of the proposed development (the proposal) on environmental conservation areas, including its effect on the following:
  - (a) the growth of native plant communities,
  - (b) the survival of native wildlife populations,
  - (c) the provision and quality of habitats for both indigenous and migratory bird species,
  - (d) the surface and groundwater characteristics of the site of the proposed development and of

the surrounding area, including salinity and water quality.

- Whether feasible alternatives to the proposal (either involving the use of other land or other means) exist and, if so, the reasons for choosing the proposal.
- Whether adequate safeguards and rehabilitation measures are needed and, if so, whether they will be taken to avoid or minimise any effect of the proposal on the matters referred to in paragraphs (a) to (d).
- The public benefit (if any) in carrying out the proposal compared with the public benefit in the preservation of the environmental conservation areas.
- The findings and recommendations of relevant ecological studies prepared for the Sydney Olympic Park Authority or the Australian Department of Defence for the Homebush Bay Area and any ecological plan of management based on these studies.
- Whether new areas of native vegetation and fauna habitats need to be created to compensate for any loss of vegetation within environmental conservation areas.

## **Schedule 8 Newington Village and High Tech Business Park**

(Clause 11)

### **Residential**

Centre-based child care facilities  
Community uses  
Dwelling-houses  
Educational establishments  
General stores  
Home occupations  
Places of assembly  
Places of public worship  
Professional consulting rooms  
Public utility undertakings  
Recreation facilities  
Refreshment rooms  
Residential flat buildings  
Solar generating works

### **Village Centre**

Advertisements  
Advertising structures  
Centre-based child care facilities  
Clubs  
Commercial premises  
Educational establishments  
General stores  
Hotels  
Motels

Places of assembly  
Places of public worship  
Public buildings  
Public utility undertakings  
Recreation facilities  
Refreshment rooms  
Shops  
Service stations  
Solar generating works  
Taverns

**High Tech Business Park**

Advertisements  
Advertising structures  
Centre-based child care facilities  
Clubs  
Commercial premises  
Educational establishments  
General stores  
Hotels  
Light industries  
Motels  
Motor showrooms  
Places of assembly  
Places of public worship  
Public utility undertakings  
Recreation facilities  
Refreshment rooms  
Service stations  
Solar generating works  
Utility installations  
Warehouses

**Schedules 9, 10 (Repealed)**