

South Sydney Local Environmental Plan No 114 (Southern Industrial and Rosebery/Zetland Planning Districts) (1994 EPI 401)

[1994-401]



New South Wales

Status Information

Currency of version

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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—

- **Does not include amendments by**
[State Environmental Planning Policy Amendment \(Water Catchments\) 2022 \(629\)](#) (not commenced — to commence on 21.11.2022)
- **Editorial note**
The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-rules (em-dashes). Text of the legislation is not affected.

This version has been updated.

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 21 October 2022

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New South Wales

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New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *South Sydney Local Environmental Plan No 114 (Southern Industrial and Rosebery/Zetland Planning Districts)*.

2 Land to which plan applies

- (1) Except as provided by subclause (2), this plan applies to the land as shown edged heavy black on the map.
- (2) This plan does not apply to the land shown as “deferred matter” on the map.
- (3) This plan does not apply to land to which *South Sydney Local Environmental Plan 1998* applies.

3 Relationship to other environmental planning instruments

- (1) This plan repeals the *City of Sydney Planning Scheme Ordinance, Sydney Local Environmental Plan No 28* and *Sydney Local Environmental Plan No 71*, and all other environmental instruments, other than State environmental planning policies and regional environmental plans, that immediately before the appointed day applied to the land to which this plan applies, but only to the extent to which those instruments applied to the land the subject of this plan.
- (2) Clause 7 of *State Environmental Planning Policy No 4—Development Without Consent* does not apply to development for shops and commercial premises on land within Zone No 4 or 4 (d).
- (3) *State Environmental Planning Policy No 4—Development Without Consent* is amended by inserting after clause 7 (2) the following subclause—

(2A) Clause 7 does not apply to land within Zone No 4 or 4 (d) under *South Sydney Local Environmental Plan No 114 (Southern Industrial and Rosebery/Zetland Planning Districts)*.

4 Aims, objectives etc

(1) The general aims of this plan are—

- (a) to repeal all the existing local environmental planning instruments applying to the land shown on the map and to replace those controls with a single local environmental plan,
- (b) to simplify the general restrictions on development by reducing the number of zones into which the land is divided,
- (c) to give the Council greater responsibility for environmental planning by creating a framework of controls and leaving the more detailed local provisions to be contained in development control plans to be made by the Council, and
- (d) to resolve, where possible, conflicting land uses and to introduce appropriate zonings to protect and enhance the existing environment and amenity of the area.

(2) The specific aims of this plan are the following—

Residential

- (a) to increase the availability and variety of dwellings to enable population growth without having adverse effects on the character and amenity of the area to which this plan applies,
- (b) to provide for predominantly residential environments, and to encourage an increase in housing opportunities,
- (c) to encourage new residential development on vacant sites and in obsolescent non-residential buildings,
- (d) to ensure that adequate housing is available to all income groups within the City of South Sydney,
- (e) to retain existing, and encourage the provision of new, low cost rental stock within inner Sydney,

Employment

- (f) to ensure the Southern Industrial and Rosebery/Zetland Districts within the City of South Sydney continue to function as a major industrial and employment centre,
- (g) to encourage the Southern Industrial and Rosebery/Zetland Districts' unique locational advantages for industry and employment,

- (h) to stimulate employment oriented development which will contribute to improvements to the built environment,
- (i) to provide sites for high technological and research enterprises which will not detrimentally affect the environment or amenity of adjoining land,

Social

- (j) to maintain and encourage development which contributes to employment opportunities,
- (k) to ensure space is provided for community services and appropriate neighbourhood retail and commercial facilities that meet the needs of the residents and workers,
- (ka) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

Built Environment

- (l) to encourage the conservation of identified heritage items, including both residential and non-residential buildings,
- (m) to protect and enhance the buildings and streetscapes of the Southern Industrial and Rosebery/Zetland Districts which are culturally, architecturally, socially, historically and aesthetically important,
- (n) to conserve the built form of existing residential areas and provide planning controls to ensure that development is compatible with the scale and density of the established urban environment,

Zoning

- (o) to provide a variety of zones to accommodate residential, employment generating and industrial uses and provide a transitional zone between residential and non-residential zones,

Open Space and Recreation

- (p) to ensure space is available for recreational activities and facilities,
- (q) to provide local open space through utilisation of street closures and acquisition of appropriate vacant land,

Services

- (r) to ensure full and efficient use of existing social and physical infrastructure and the future provision of services and facilities to meet any increased demand,

Transport

- (s) to rationalise and develop the existing transport system to better service the Southern Industrial and Rosebery/Zetland Districts and surrounding areas.

5 Interpretation

- (1) In this plan—

alteration, in relation to a building, means any alteration to the building and includes partial demolition of the building.

appointed day means the day on and from which this plan takes effect.

backpackers hostel means a dwelling, residential flat building or hostel having an average of two beds or more per room and providing shared accommodation for persons who have their principal place of residence elsewhere.

boarding house means a building wholly or partly let as lodgings which provides lodgers with a principal place of residence, but does not include a backpackers hostel, building containing serviced apartments, hotel or motel.

bulky goods means large goods such as furniture, do-it-yourself home improvement materials and the like which generate a low return per unit floor area and which are, in the opinion of the Council, of such a size and shape as to require—

- (a) a large area for handling storage or display,
- (b) easy and direct vehicular access to enable the goods to be collected by customers after sale.

child care centre means a building or place used for the purpose of supervising or caring for children which—

- (a) caters for 5 or more under school age children, whether or not those children are related to the owner or operator of the child care centre, and
- (b) may include an educational function, and
- (c) may operate for the purpose of gain,

but does not include a building or place providing residential care for those children.

community centre means a building or place owned or controlled by the Council, or a body of persons associated for the purpose of the physical, social, cultural, economic or intellectual welfare of the community, and used to provide facilities for administering or providing services for any one or more of the following—

- (a) a public building,
- (b) public health services,

- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,
- (f) child minding,
- (g) any other like place or activity.

Council means the Council of the City of South Sydney.

depot means a building or place used by a public authority for the storage of materials and the servicing, repair and garaging of vehicles and equipment.

dwelling house means a building containing one but not more than one dwelling on an allotment and includes what is commonly known as a terrace house.

equipment hire centre means a building or premises used to hire out and store a range of tools and equipment and to repair and service that equipment.

floor means that space within a building (including an attic space) which is situated between one floor level and the floor level next above (or if there is no floor above, the ceiling or roof above).

floor space ratio, in relation to a building, means the ratio of the gross floor area of the building to the area of the site on which the building is, or is to be, erected.

height, in relation to a building, means the vertical distance expressed in metres between a point on the ceiling of the topmost habitable floor and the natural ground level immediately below that point.

height and floor space ratio control map means the instrument marked "*Height and Floor Space Ratio Control Map*", being sheet 2 of the map as amended by the maps (or, if any sheets of the maps are specified, by the specified sheets of the maps) marked as follows—

South Sydney Local Environmental Plan No 135—Floor Space Ratio Map

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

- (a) electronic and micro-electronic systems, goods and components,
- (b) computer software and hardware,
- (c) instrumentation and instruments,

- (d) biological, pharmaceutical, medical or paramedical systems, goods and components,
- (f) other goods, systems and components intended for use in science and technology.

natural ground level, in relation to a site, means the level determined by the Council to be the natural surface of the site.

private hotel means a hotel used primarily for short term residential purposes which is not licensed under the [Liquor Act 1982](#).

recreation area means—

- (a) a children’s playground, or
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by—
 - (i) the Council, or
 - (ii) a body of persons associated for the purpose of the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or showground.

residential flat building means a building containing two or more dwellings but does not include serviced apartments.

restricted premises means a building or place—

- (a) used or intended for use as a shop or place of assembly in or on which category 1 restricted publications or category 2 restricted publications, within the meaning of the [Indecent Articles and Classified Publications Act 1975](#), are exposed, exhibited, displayed, sold or otherwise rendered accessible or available to the public, or
- (b) in or on which a business is conducted, an object of which is the display or exhibition of any article within the meaning of the [Indecent Articles and Classified Publications Act 1975](#), or any film, within the meaning of the [Film and Computer Game Classification Act 1984](#), that is primarily concerned with or is used or intended for use in connection with sexual behaviour but which is not printed matter,

but does not include a newsagency or pharmacy.

serviced apartment means a self-contained dwelling (in a building containing two or more self-contained dwellings) which is cleaned or serviced by the owner or manager

of the building (or the agent of the owner or manager), and which provides short-term accommodation for persons who have their principal place of residence elsewhere, but does not include a backpackers hostel, boarding house or private hotel.

the map means sheets 1-2 of the map marked “*South Sydney Local Environmental Plan No 114 (Southern Industrial and Rosebery Zetland Planning Districts)*” as amended by the maps marked as follows—

South Sydney Local Environmental Plan No 135—Zoning Map

vehicle rental centre means a building or other premises used to rent out vehicles and service those vehicles.

(2) In this plan—

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose,
- (b) a reference to land within a zone specified in the Table to clause 9 is a reference to land shown on the map in the manner indicated in clause 8 as the means of identifying land of the zone so specified,
- (c) a reference to a map is a reference to a map deposited in the office of the Council.

6 Adoption of Model Provisions

The *Environmental Planning and Assessment Model Provisions 1980* (except for the definitions of **boarding house**, **child care centre**, **dwelling house**, **floor**, **map** and **residential flat building** and clause 16, 17, 19, in its application to **car repair stations**, 28 and 35 (c) are adopted for the purposes of this plan.

7 Consent authority

The Council shall be the consent authority for the purposes of this plan.

Part 2 General restrictions on development of land

8 Zones indicated on the map

For the purposes of this plan, land to which this plan applies shall be within a zone specified hereunder if the land is shown on the map in the manner specified hereunder in relation to that zone—

Zone No 2 (a) (Residential Zone)—edged heavy black and lettered “2 (a)”

Zone No 2 (c) (Mixed Use [Residential] Zone)—edged heavy black and lettered “2 (c)”

Zone No 2 (d) (Residential Renewal Zone)—edged heavy black and lettered “2 (d)”

Zone No 3 (b) (Neighbourhood Business Zone)—edged heavy black and lettered “3

(b)”

Zone No 4 (General Industrial Zone)—edged heavy black and marked “4”

Zone No 4 (d) (Industrial [Interim Development] Zone)—edged heavy black and lettered “4 (d)”

Zone No 5 (a) (Special Uses Zone)—edged heavy black with a particular land use indicated by lettering

Zone No 6 (Recreation Existing Zone)—lightly dotted

Zone No 9 (a) (Reservation [Arterial Road] Zone)—broken bands between black lines

Zone No 10 (a) (Employment [Business Park] Zone)—edged heavy black and lettered “10 (a)”

9 Zone objectives and development control table

- (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of zone”.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in a Table to this clause, the purposes (if any), for which—
 - (a) development may be carried out without development consent, and
 - (b) development may be carried out only with development consent, and
 - (c) development is prohibited,are specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter in that Table relating to the zone.
- (3) Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.
- (4)-(7) (Repealed)
- (8) Subclauses (4)-(7) and Schedule 1 are repealed on the second anniversary of the day on which *South Sydney Local Environmental Plan No 134* commenced.

Table

Zone No 2 (a) (Residential Zone)

1 Objectives of zone

The objectives are—

- (a) to nominate those areas which are primarily residential and where future residential development will occur,
- (b) to ensure that building form, including alterations and additions, is in character with surrounding development and does not detract from the amenity of adjoining or adjacent residents or the existing quality of the environment,
- (c) to provide opportunities for non-residential development which provides services or employment for residents, provided such development is of a type and scale that is compatible with existing or planned residential development and does not conflict with the residential objectives of the zone.

2 Without development consent

Dwelling houses.

3 Only with development consent

Boarding houses; child care centres; community centres; educational establishments; home industries; home occupations; places of public worship; professional consulting rooms; any other purpose which by virtue of its type, function or scale, the services to be provided or the nature of the environment in which it is proposed to be located is, in the opinion of the Council, consistent with the objectives of the zone.

4 Prohibited

Any purpose other than a purpose included in Item 2 or 3.

Zone No 2 (c) (Mixed Use [Residential] Zone)

1 Objectives of zone

The objectives are—

- (a) to encourage residential redevelopment on vacant or under utilised sites,
- (b) to encourage residential uses by providing an incentive in the form of a higher permissible floor space ratio for development incorporating

residential uses and serviced apartments,

- (c) to ensure that adequate residential infrastructure is available to, or is incorporated into, new residential development,
- (d) to ensure that new residential development is unlikely to unreasonably constrain the continuation, expansion or intensification of existing non-residential development in the immediate vicinity,
- (e) to identify areas where a mix of residential with retail, light industry and commercial uses are appropriate,
- (f) to allow new development for exclusively non-residential uses compatible with the character and amenity of the locality at a lesser floor space ratio than residential development.

2 Without development consent

Dwelling houses.

3 Only with development consent

Advertising structures; backpackers hostels; boarding houses; car parking stations; child care centres; commercial premises; community centres; dwellings attached to or above other buildings permissible in the zone; educational establishments; equipment hire centres; high technology industries; home industries; home occupations; light industries; places of public worship; private hotels; professional consulting rooms; recreation facilities; residential flat buildings; serviced apartments; shops; vehicle rental centres; any other purpose which by virtue of its type, function or scale, the services to be provided or the nature of the environment in which it is proposed to be located is, in the opinion of the Council, consistent with the objectives of the zone.

4 Prohibited

Any purpose other than a purpose included in Item 2 or 3.

Zone No 2 (d) (Residential Renewal Zone)

1 Objectives of zone

The objectives are—

- (a) to encourage the consolidation of the residential precincts of Zetland

and Beaconsfield,

- (b) to prevent further fragmentation of the Zetland and Beaconsfield precincts through conflicting and incompatible land uses,
- (c) to enhance the existing environment by excluding new development that will adversely affect the residential amenity of the area,
- (d) to encourage residential development on vacant land, underutilised sites and land currently being used for non-residential purposes,
- (e) to provide sites for a range of residential accommodation in a landscaped, integrated environment, with due regard to existing land uses in the immediate locality,
- (f) to encourage all development to be cohesively linked and compatibly integrated with adjoining land uses,
- (g) to encourage residential development on vacant land, underutilised sites and land currently being used for non-residential purposes,
- (h) to improve the environmental amenity of existing industrial development, especially where relocation is not a viable option.

2 Without development consent

Dwelling houses.

3 Only with development consent

Advertising structures; backpackers hostels; boarding houses; car repair stations; child care centres; community centres; educational establishments; home industries; home occupations; light industries; places of public worship; professional consulting rooms; residential flat buildings; warehouses; any other purpose which by virtue of its type, function or scale, the services to be provided or the nature of the environment in which it is proposed to be located is, in the opinion of the Council, consistent with the objectives of the zone.

4 Prohibited

Any purpose other than a purpose included in Item 2 or 3.

Zone No 3 (b) (Neighbourhood Business Zone)

1 Objectives of zone

The objectives are—

- (a) to allow a limited range of retail and commercial activities and community facilities compatible with the character of the area and the amenity of the locality to meet the requirements of the local population,
- (b) to restrict office development to small scale development designed to meet the needs of the district.

2 Without development consent

Nil.

3 Only with development consent

Advertising structures; boarding houses; child care centres; commercial premises; community centres; dwelling houses; dwellings attached to or above other buildings permissible in the zone; hotels; motels; open space; places of assembly; places of public worship; public buildings; recreation facilities; refreshment rooms; residential flat buildings; service stations; shops; any other purpose which by virtue of its type, function or scale, the services to be provided or the nature of the environment in which it is proposed to be located is, in the opinion of the Council, consistent with the objectives of the zone.

4 Prohibited

Any purpose other than a purpose included in Item 3.

Zone No 4 (General Industrial Zone)

1 Objectives of zone

The objectives are—

- (a) to facilitate and promote development ranging from general industry to advanced technology industry, including warehousing, manufacturing, distribution and associated research and administrative uses,
- (b) to allow a range of non-residential development which provides direct services to the industrial activities and their workforce and other uses which by their type and scale cannot be located in another zone,
- (c) to ensure that development is carried out in a manner which does not

detract from the amenity of residential areas or the viability of commercial centres in the vicinity, or from the efficient operation of the local or regional road system.

2 Without development consent

Nil.

3 Only with development consent

Advertising structures; bulky goods; bus depots; car repair stations; child care centres; depots; dwellings attached to or above other buildings permissible in the zone; educational establishments; equipment hire centres; industries; liquid fuel depots; motor showrooms; places of public assembly; places of public worship; public utility undertakings; recreation facilities; road transport terminals; service stations; vehicle rental centres; warehouses; any other purpose which, by virtue of its nature, the services to be provided or the products produced, distributed or sold is, in the opinion of the Council, consistent with the objectives of the zone.

4 Prohibited

Any purpose other than a purpose included in Item 3.

Zone No 4 (d) (Industrial [Interim Development] Zone)

1 Objectives of zone

The objectives are—

- (a) to identify land which, subject to confirmation of the future use and environmental impact of the Waverley/Woollahra Incinerator and confirmation of a proposed airlink station in the area, may be suitable for residential redevelopment under the Residential Renewal Zone,
- (b) to permit development permitted in the General Industrial Zone until the matters identified in paragraph (a) have been resolved,
- (c) to ultimately link the residential precincts of Zetland and Beaconsfield to form one consolidated residential area,
- (d) in the interim, to protect the environmental amenity of the area by restricting development of an offensive or hazardous nature.

2 Without development consent

Nil.

3 Only with development consent

Advertising structures; bulky goods; bus depots; car repair stations; child care centres; depots; dwellings attached to or above other buildings permissible in the zone; educational establishments; equipment hire centres; industries; liquid fuel depots; motor showrooms; places of public assembly; places of public worship; public utility undertakings; recreation facilities; road transport terminals; service stations; vehicle rental centres; warehouses; any other purpose which, by virtue of its nature, the services to be provided, or the products produced, distributed or sold is, in the opinion of the Council, consistent with the objectives of the zone.

4 Prohibited

Any purpose other than a purpose included in Item 2 or 3.

Zone No 5 (a) (Special Uses Zone)

1 Objectives of zone

The objective is to identify land which is currently used by public authorities, institutions, organisations or the Council to provide certain community facilities, services or utilities.

2 Without development consent

Nil.

3 Only with development consent

The particular purpose indicated by lettering on the map or a use ancillary or incidental to that purpose or permissible with or without consent in the adjacent zone; advertising structures; child care centres; open space; recreation areas; recreational facilities; utility installations; any other purpose which by virtue of its type, function or scale or the services to be provided is, in the opinion of Council, consistent with the objectives of the zone.

4 Prohibited

Any purpose other than a purpose included in Item 3.

Zone No 6 (Recreation Existing Zone)

1 Objectives of zone

The objectives are—

- (a) to identify open space areas to meet the active and passive recreational needs of all residents and the work force of the district,
- (b) to allow a diversity of recreational activities suitable for all residents of the district.

2 Without development consent

Works for the purpose of landscaping or gardening.

3 Only with development consent

Advertising structures; amenities buildings; child care centres; community centres; recreation areas; recreational facilities; any other purpose which by virtue of its type, function or scale or the services to be provided is, in the opinion of the Council, consistent with the objectives of the zone.

4 Prohibited

Any purpose other than a purpose included in Item 2 or 3.

Zone No 9 (a) (Reservation [Arterial Road] Zone)

1 Objectives of zone

The objectives are—

- (a) to identify land proposed to be acquired for arterial roads or widening of arterial roads,
- (b) to safeguard the interests of the owners of such land.

2 Without development consent

Arterial road widening; arterial roads

3 Only with development consent

Any use which is compatible with adjacent lawful uses or with other uses permissible in adjacent zones; drainage; open space; roads; utility installations.

4 Prohibited

Any purpose other than a purpose included in Item 2 or 3.

Zone No 10 (a) (Employment [Business Park] Zone)

1 Objectives of zone

The objectives are—

- (a) to permit development to be carried out for business, commercial, industrial, recreational or residential purposes or community facilities which will create economic and social benefits for the area and the region,
- (b) to encourage and permit the development of an employment area which is accessible to employees,
- (c) to encourage the development of industries which use advanced technology products and processes,
- (d) to permit the development of a range of facilities serving the needs of the proposed business park,
- (e) to create a park-like environment emphasising the integration of all buildings, structures and landscaped areas with strong visual and aesthetic appeal,
- (f) to provide effective landscaped transition areas between varying land uses to permit development to be cohesively linked and compatibly integrated,
- (g) to maintain and upgrade in an integrated and compatible manner the present use of the land to which this zone applies—
 - to provide opportunities for the establishment of a wide range of employment, residential and social activities for residents of adjoining areas, and
 - to permit a wide range of industrial and business activities which, by the nature of their operation, will require the location of commercial and office facilities in close association with industrial, warehousing, processing and service industries.

2 Without development consent

Nil.

3 Only with development consent

Advertising structures; child care centres; commercial premises; commercial recreation premises; community centres; dwellings attached to or above other buildings permissible in the zone; high technology industries; light industries; motor showrooms; places of assembly; public buildings including depots; residential flat buildings; shops which serve the daily convenience needs of the workforce of the locality; warehouses; any other purpose which, by virtue of its nature, the services to be provided or the products produced, distributed or sold is, in the opinion of the Council, consistent with the objectives of the zone.

4 Prohibited

Any purpose other than a purpose included in Item 3.

Part 3 Special provisions

10 Floor space ratio

- (1) The floor space ratio of any building to be erected on land to which this plan applies shall not exceed the maximum ratio specified on the height and floor space ratio control map for the area in which the building is located.
- (2) The floor space ratios set out in this clause and on the height and floor space ratio control map are maximum limits and may not be achievable in all instance due to environmental considerations including but not limited to, overshadowing and privacy or development controls including, but not limited to, parking requirements and landscaping requirements, or where the proposed development does not generally meet the Council's planning, environmental and urban design objectives.
- (3) Notwithstanding subclause (1) within Zone No 4 the Council shall not grant consent for a commercial use or any other non-industrial use that is referred to in paragraph (b) of the objectives of that zone which is not specified in Item 3 of the matter relating to that zone in the table to Clause 9, where that use exceeds 25% of the maximum floor space ratio for that development.
- (4) Nothing in subclause (3) restricts the amount of commercial floor space on a site where the use of that floor space is ancillary to, or is used in conjunction with, industry or warehousing.
- (5) Notwithstanding subclause (1) within Zone No 2 (c), the Council shall not grant

consent to development for non-residential purposes, or to development that is the non-residential component of mixed residential and non-residential development, which exceeds 50% of the maximum floor space ratio for that development.

- (6) Subclause (5) does not apply to the use for non-residential purposes of buildings which exist and were lawfully used for those purposes on the appointed day.
- (7) Notwithstanding subclause (1), in Zone No 10 (a) (being land generally bound by South Dowling Street, Link Road, Epsom Road, Joynton Avenue and O'Dea Avenue) the Council may, in granting consent to a development application, allow an additional floor space ratio not exceeding 0.5:1 if existing lots are amalgamated to form a site equal to or greater than 20 ha.
- (8) The Council shall not allow an additional floor space ratio as referred to in subclause (7) unless the Council is satisfied that the additional floor space would assist in achieving the Council's planning, environmental and urban design objectives.
- (9) Notwithstanding subclause (1) within Zone No 2 (d), the Council may, in granting consent to a development application, allow an additional floor space ratio of up to 0.5:1 for residential development of non-residential sites where the sites are, in the opinion of the Council, suitable and large enough to accommodate the increase in floor space and the Council is satisfied that the additional floor space will assist in achieving the objectives of that zone and the Council's planning, environmental and urban design objectives.
- (10) In this clause, use for non-residential purposes does not include use for the purpose of serviced apartments.

11 Height of buildings

- (1) The height of any building to be erected on land to which this plan applies shall not exceed the height in metres specified, on the height and floor space ratio control map, for the area in which the building is located.
- (2) The building height limits set out in this clause and on the height and floor space ratio control map are maximum limits and may not be achievable in all instances due to environmental considerations including, but not limited to, overshadowing and privacy, or development controls including, but not limited to, parking requirements and landscaping requirements, or where proposed development does not generally meet the Council's planning, environmental and urban design objectives.
- (3) Notwithstanding subclause (1), in Zone No 10 (a) (being the land generally bound by South Dowling Street, Link Road, Epsom Road, Joynton Avenue and O'Dea Avenue) the Council may, in granting consent to a development application, allow the erection of buildings having a height of not more than 21 m if the lots that existed on the appointed day are amalgamated to form a site equal to or greater than 20 ha.

- (4) The Council shall not allow an increase in the permissible height limit as referred to in subclause (3) unless the Council is satisfied that the additional height would assist in achieving Council's planning, environmental and urban design objectives.

12 Tree preservation orders

A tree preservation order made, and in force, immediately before the appointed day and relating to land to which this plan applies shall be taken to be a tree preservation order made by the Council under clause 8 of the *Environmental Planning and Assessment Model Provisions 1980* (as adopted by this plan) and may be rescinded or varied in accordance with that clause.

13 Community use of school facilities

- (1) Where land to which this plan applies is used for the purpose of an educational establishment, the site and facilities of the establishment may, with the consent of the Council, be used for the purposes of meeting rooms, public halls, public libraries, entertainment, sport or recreation or for any other additional community purpose, whether or not the use of that site or those facilities for any such additional purpose results in the use of that site or those facilities for a commercial purpose.
- (2) Nothing in this clause requires development consent to be obtained for the carrying out of development on any land if that development could, but for this clause, be carried out on that land without development consent.

14 Subdivision

A person shall not subdivide land, otherwise than under the *Strata Titles Act 1973* or the *Strata Titles (Leasehold) Act 1986*, without the consent of the Council.

15 Acquisition of land reserved for arterial roads

Note—

Nothing in this clause is to be construed as requiring a public authority to acquire land—see section 27 (3) of the Act.

- (1) The owner of any vacant land within Zone No 9 (a) may, by notice in writing, require—
 - (a) the RTA—in the case of land that is included in the five-year works programme of the RTA current at the time of receipt of the notice, or
 - (b) the Corporation—in any other case,to acquire the land.
- (2) The owner of any land within Zone No 9 (a) that is not vacant, may, by notice in writing, require the RTA to acquire the land if—
 - (a) the land is included in the five years works programme of the RTA current at the

time of receipt of the notice, or

- (b) the RTA has decided not to give concurrence to an application for consent to the carrying out of development of the land, or
 - (c) the RTA is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time.
- (3) On receipt of a notice under this clause, the RTA or the Corporation, as the case may be, must acquire the land unless the land might reasonably be required to be dedicated for public roads.
- (4) A person may, with the consent of the Council, carry out development on land within Zone No 9 (a)—
- (a) for a purpose for which development may be carried out on land in an adjoining zone, or
 - (b) for any purpose that is compatible with development that may be carried out on land in an adjoining zone.
- (5) (Repealed)
- (6) Land acquired under this clause may be developed, with the consent of the Council, for any purpose, until such time as it is required for the purpose for which it was acquired.
- (7) In this clause—

the Corporation means the Corporation constituted by section 8 (1) of the Act.

the RTA means the Roads and Traffic Authority constituted under the [Transport Administration Act 1988](#).

vacant land means land on which, immediately before the day on which a notice under subclause (1) is given, there were no buildings other than fences, greenhouses, conservatories, garages, summer houses, private boat houses, fuel sheds, tool houses, cycle sheds, aviaries, milking bails, hay sheds, stables, fowl houses, pig sties, barns or the like.

16 Retailing of bulky goods in industrial zones

- (1) This clause applies to land within Zone No 4 or 4 (d).
- (2) Subject to subclause (3), nothing in this plan shall prevent a person, with the consent of the Council, from carrying out, on land to which this clause applies, development for the purpose of the retail sale of bulky goods from a building or site in or on which those goods are stored, manufactured, displayed or processed.

- (3) The Council shall not grant consent for development referred to in subclause (2) unless it is satisfied—
- (a) that suitable land is not available for the proposed development in any nearby business centre, and
 - (b) that the proposed development will not detrimentally affect—
 - (i) existing or future industrial development within the zone in which the land concerned is situated, or
 - (ii) the range of services offered by existing shops located in any nearby business centre, and
 - (c) that to grant consent would not, by reason of the number of retail outlets which exist or are proposed on land within Zone No 4 or 4 (d), defeat the predominantly industrial nature of the zone.
- (4) The Council shall not grant consent to an application for a sign associated with the retailing of bulky goods on land to which this clause applies other than a sign which is used solely for company identification only.

17 Development for the purpose of backpackers hostels or serviced apartments

- (1) A person shall not carry out development for the purpose of a backpackers hostels or serviced apartment (including using premises for the purposes of a backpackers hostel or serviced apartment that were formerly used as a dwelling house, residential flat building, boarding house or private hotel) except with the consent of the Council.
- (2) In determining a development application for the purposes of a backpackers hostel or serviced apartment, the Council must consider—
- (a) the need to maintain low cost, long term rental accommodation in the City of South Sydney particularly, but not exclusively, accommodation in the form of boarding houses, and
 - (b) the need to control the establishment of backpackers hostels and serviced apartments in the City of South Sydney, and
 - (c) the need to control the reduction in residential amenity associated with the encroachment of backpackers hostels and serviced apartments into primarily residential areas.

18 Development on residential zones

The Council shall not grant consent to the use of a building within Zone No 2 (a), 2 (c) or 2 (d) which was used as a dwelling house, boarding house, private hotel, backpackers hostel or residential flat building at the appointed day, for any non-residential purpose which

would prevent its residential use, unless it satisfied that the local amenity is such that the building is no longer suitable for residential purposes.

19 Development for the purposes of light industry, warehouses and car repair stations in Zone No 2 (d)

The Council shall not grant consent to development of any site for the purposes of light industry, warehouses or car repair stations in Zone No 2 (d) unless the site was on the appointed day lawfully used for one of those purposes or was a site adjoining and in the same ownership as a site which was lawfully used for one of those purposes.

20 Development for the purposes of restricted premises

- (1) The Council may consent to the carrying out of development for the purposes of restricted premises only where the following conditions (in addition to any other conditions which may be imposed by the Council) are imposed—
 - (a) no part of the restricted premises (other than an access corridor to the premises) shall be located on a level within 1500 millimetres, measured at the entrance, of the level of a public road, arcade or other thoroughfare generally open to the public or used by the public,
 - (b) no part of the restricted premises or building in which the premises are situated shall be used as a dwelling unless separate access is available to the dwelling,
 - (c) no advertisements or signs relating to the restricted premises or any business carried on at the premises (other than a sign to which subclause (2) applies) shall be erected, displayed or exhibited to public view in a window or an entrance of the premises or in, outside or directly above an access corridor to the premises.
- (2) Notwithstanding any other provision of this plan, a person may, with the consent of the Council, erect, display or exhibit a sign in relation to restricted premises where—
 - (a) the Council is satisfied that the sign is not likely to interfere with the amenity of the locality, and
 - (b) the sign does not exceed 3000 millimetres by 300 millimetres in size and sets out only—
 - (i) the words “RESTRICTED PREMISES” in capital letters not less than 50 millimetres in height, and
 - (ii) the name of the person who conducts the business at those restricted premises or the registered name of the business carried out on those restricted premises, and
 - (c) not more than one such sign is erected, displayed or exhibited to public view in a window or an entrance of the restricted premises or in, outside or directly above

an access corridor to the premises.

21 Advertising signs and structures in residential zones

- (1) This clause applies to land within Zone No 2 (c) or 2 (d).
- (2) A person may, with the consent of the Council, erect on land to which this clause applies, or on a building or work on that land, advertising signs or advertising structures not more than 1 square metre in area which do not contain anything other than—
 - (a) the name of the person residing in or carrying on any business, trade, industry or profession in or on that land, and
 - (b) the name of the premises and any necessary or usual directions or cautions relating to the premises or the business, trade, industry or profession carried out in or on the premises, and
 - (c) a statement as to the nature of the business, trade, industry or profession carried out in or on the premises, and
 - (d) the description or a list of prices of the goods for sale or hire in or on the premises, and
 - (e) a notice that the premises are to let or for sale with particulars of the same and of the name and address of the person of whom enquiries may be made, and
 - (f) the contents bill of a newspaper or periodical on sale in or on such premises, and
 - (g) advertisements as to meetings, entertainments or religious services to be held in or on the premises.
- (3) Notwithstanding subclause (2), a person may, with the consent of the Council, erect an advertising structure or sign on land within Zone No 2 (c) or 2 (d) up to a maximum of 4 square metres in area if the sign is designed so that it is compatible with the architecture of any building on which it is exhibited and would not interfere with the amenity of the locality.

22 Development on all land to which this plan applies

- (1) The Council shall not grant consent to any development on any land to which this plan applies unless—
 - (a) water, sewerage and drainage services sufficient to cater for the needs of the development are available, and
 - (b) (Repealed)

23 Flood liable lands

The Council shall not grant consent to the erection of a building or the carrying out of works on land to which this plan applies if, in the opinion of the Council—

- (a) the land is within a floodway, and
- (b) the carrying out of the development is likely—
 - (i) to adversely impede the flow of flood waters on that land or land in its immediate vicinity, or
 - (ii) to imperil the safety of persons on that land or land in its immediate vicinity in the event of those lands being inundated with flood waters, or
 - (iii) to aggravate the consequences of floodwaters flowing on that land or land in its immediate vicinity with regard to erosion or siltation, or
 - (iv) to have an adverse effect on the water table of that land or of land in its immediate vicinity.

24 Contaminated land

- (1) A person must not, on land to which this plan applies—
 - (a) disturb or excavate any land for any purpose, or
 - (b) carry out any land filling, or
 - (c) clear trees or other vegetation from the land, or
 - (d) carry out any work, or
 - (e) alter the landscape or carry out any landscaping,except with the consent of the Council.
- (2) The Council must not grant consent to the carrying out of any development (other than subdivision) on land to which this plan applies that is land known by the Council to require remediation unless the consent is subject to conditions—
 - (a) requiring remediation of the land in a manner acceptable to the Environment Protection Authority, and
 - (b) prohibiting the construction or erection of a building or the carrying out of a work on any part of that land pursuant to the consent until the Authority has advised the Council that, according to a report provided by a consultant recognised by the Authority, the part of the land has been remediated in accordance with the ANZECC and NH & MRC Guidelines to the extent necessary for the proposed development.

This subclause does not prevent the imposition of other kinds of conditions on such a consent or limit the extent of the conditions that may be imposed on such a consent.

- (3) Subclauses (1) and (2) do not apply to any land to which this plan applies after the Environment Protection Authority has advised the Council that the land has been remediated as referred to in subclause (2) (b).
- (4) In this clause, **ANZECC and NH & MRC Guidelines** means the *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites* jointly developed by the Australian and New Zealand Environment and Conservation Council (ANZECC) and the National Health and Medical Research Council (NH & MRC) published in January 1992.

25 Development in the vicinity of Alexandra Canal

- (1) A person shall not erect any structure on land within 10 metres of the Alexandra Canal bank or its open secondary channels except with the consent of the Council.
- (2) The Council shall not consent to the erection of any structure on land referred to in subclause (1) unless it has made an assessment of the effect the carrying out of development will have on the existing aquatic environment and the potential use of the canal for recreational purposes.

26 Development for certain additional purposes

Nothing in this plan prevents a person, with the consent of the Council, from carrying out development at 53 Hansard Street, Zetland, for the purposes of a car repair station, subject to such conditions, if any, as the Council may specify.

27 Suspension of certain covenants etc

- (1) For the purpose of enabling development to be carried out in accordance with this plan pursuant to a consent granted under the Act, the operation of any covenant, agreement or similar instrument imposing restrictions on development shall not apply to the development (to the extent necessary to serve that purpose).
- (2) Subclause (1) only relates to land zoned Industrial under this plan.
- (3) Nothing in subclause (1) shall affect the rights or interests of any statutory authority under any registered instrument.
- (4) Pursuant to section 28 of the Act, before the making of this plan, the Governor approved of subclauses (1)–(3).

28 Classification and reclassification of public land

The public land described in Schedule 2 is classified, or reclassified, as operational land for the purposes of the [Local Government Act 1993](#).

29 Application of [Sydney Local Environmental Plan 2012](#)—street art is exempt development

Clause 3.1 of, and Schedule 2 to, the [Sydney Local Environmental Plan 2012](#) (to the extent that they specify street art as exempt development) apply to development on land to which this plan applies in the same way as they apply to development on land to which that Plan applies.

30 Standards that cannot be used to refuse consent—playing and performing music

- (1) The consent authority must not refuse consent to development in relation to licensed premises on the following grounds—
 - (a) the playing or performance of music, including the following—
 - (i) the genre of music played or performed, or
 - (ii) whether the music played or performed is live or amplified, or
 - (iii) whether the music played or performed is original music, or
 - (iv) the number of musicians or live entertainment acts playing or performing, or
 - (v) the type of instruments played,
 - (b) whether dancing occurs,
 - (c) the presence or use of a dance floor or another area ordinarily used for dancing,
 - (d) the direction in which a stage for players or performers faces,
 - (e) the decoration to be used, including, for example, mirror balls, or lighting used by players or performers.
- (2) The consent authority must not refuse consent to development in relation to licensed premises on the grounds of noise caused by the playing or performance of music, if the consent authority is satisfied the noise may be managed and minimised to an acceptable level.
- (3) In this clause—

licensed premises has the same meaning as in the [Liquor Act 2007](#).

Schedule 1 (Repealed)

Schedule 2 Classification and reclassification of public land

(Clause 28)

[Alexandria](#)

Euston Road

Land known as part Nos 171-203 and part Nos 211-223, as shown edged heavy black and marked "Operational Land" on the map marked "*South Sydney Local Environmental Plan No 135*" *Classification Map*".