

# **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

## **SOUTH SYDNEY LOCAL ENVIRONMENTAL PLAN NO. 114 (SOUTHERN INDUSTRIAL AND ROSEBERY/ZETLAND PLANNING DISTRICTS)**

I, the Minister for Planning in pursuance of section 70 of the Environmental Planning and Assessment Act, 1979, make the local environmental plan set out hereunder.

Minister for Planning

Sydney, 1992

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### **PART 1 - PRELIMINARY**

#### **Citation**

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

#### **Land to which Plan applies**

2. This plan applies to the following land:
  - (a) the Southern Industrial and Rosebery/Zetland Planning Districts as shown edged heavy black on the map marked "South Sydney Local Environmental Plan No. 114 (Southern Industrial and Rosebery/Zetland Planning Districts)".

#### **Relationship to other Environmental Planning Instruments**

3.
  - (1) This plan repeals all environmental planning 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) Clauses 6, 6A, 9 and 10 of State Environmental Planning Policy No. 4 - Development Without Consent do not apply to the carrying out of certain development in conservation areas.

## **Aims, Objectives, etc.**

### **4. (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; and
- (b) to simplify the general restrictions on development by reducing the number of zones into which the land is divided; and
- (c) to give 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 Council; and
- (d) to resolve, where possible, conflicting land uses and the introduction of appropriate zonings to protect and enhance the existing environment and amenity of the area.

### **(2) The specific aims of this Plan are:**

#### **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 districts; and
- (b) to provide for predominantly residential environments, including encouraging an increase in housing opportunities; and
- (c) to encourage new residential development on vacant sites and in obsolescent non-residential buildings; and
- (d) to ensure that adequate housing is available to all income groups within South Sydney; and
- (e) to retain existing and encourage the provision of new, low cost rental stock within the inner city; and

### Employment

- (g) to ensure the Southern Planning Districts continue to function as the State's industrial focus in the longer term; and
- (h) to encourage the Districts' unique locational advantages to support its role as a prime industrial/employment centre; and
- (i) to stimulate employment oriented developments which will contribute to improvements to the built environment; and
- (j) to provide sites for high technological and research enterprises which will not detrimentally affect the environment or amenity of adjoining land; and

### Social

- (k) to maintain and encourage development which contributes to employment opportunities; and
- (l) to ensure space is provided for community services and appropriate neighbourhood retail and commercial facilities that meet the needs of the living and working community; and

### Built Environment

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

### Zoning

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

### Open Space and Recreation

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

### Services

- (s) 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; and

### Transport

- (t) to rationalise and develop the existing transport system to better service the districts and surrounding areas.

### **Interpretation**

5. (1) In this Plan –

"alter", in relation to a heritage item or to a building or work within a heritage conservation area, means –

- (a) the making of structural changes to the outside of the heritage item, building or work; or
- (b) the making of non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work not including the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work;

"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;

"boarding house" means a building wholly or partly let in lodgings which provides lodgers with a principle 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 Council, of such a size and shape as to require

- (a) a large area for handling storage or display; and
- (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 of operator of the child care centre;
- (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 or 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;

"demolition" in relation to a heritage item or to a building or work, within a heritage conservation area, means the damaging, defacing, destruction, pulling down or removal of the heritage item, building or work, in whole or in part;

"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 instruments marked "Height and Floor Space Ratio Control Map", being sheet 2 of the map;

"heritage conservation area" means an area of heritage significance being land shown edged black and marked "Conservation Area" on the Heritage and Conservation map;

"heritage item" means a building, work, relic, tree or place of heritage significance to the City of South Sydney identified on the maps marked "Heritage and Conservation", being sheet 3 of the map;

"heritage significance" means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance;

"high technology industry" means an enterprise which has as its primary function the manufacture, development, production, processing, 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;
- (e) biological, pharmaceutical, medical and/or paramedical systems, goods and components;
- (f) other goods, systems and components intended for use in science and technology;

"maintenance" means the continuous protective care of the fabric of a heritage item and its setting;

"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;
  - (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;

"relic" means any deposit, object, or material evidence (terrestrial or underwater) relating to the use or settlement including Aboriginal habitation, of the area of the council which is fifty or more years old;

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

"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, which have their principal place of residence elsewhere, but does not include a backpackers hostel, boarding house or private hotel;

"the map" means sheets 1-3 of the map marked "South Sydney Local Environmental Plan No. 114 (Southern Industrial and Rosebery Zetland Planning Districts)";

"vehicle rental centre" means a building or 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; and
  - (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; and
  - (c) a reference to a map is a reference to a map deposited in the office of the council.

#### **Adoption of Model Provisions**

6. 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 clauses 16, 17, 28 and 35(c) are adopted for the purposes of this Plan.

#### **Consent Authority**

7. The council shall be the consent authority for the purposes of this Plan.



## **PART 2 – GENERAL RESTRICTIONS ON DEVELOPMENT OF LAND**

### **Zones indicated on the Map**

8. 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 [Comprehensive Redevelopment 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 marked "4(d)";

Zone No. 5(a) (Special Uses Zone) – particular purpose indicated by lettering on the map;

Zone No. 6 (Recreation Existing Zone) – lightly dotted;

Zone No. 9(a) (Reservation [Arterial Road] Zone) – a broken band between broken black lines;

Zone No. 10(a) (Employment [Business Park] Zone) – edged heavy black and marked "10(a)";

### **Zone Objectives and Development Control Table**

9. (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 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 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.

## **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; and
- (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; and
- (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 objective of the zone.

#### **2. Without development consent**

Dwelling houses (except in a heritage conservation area).

#### **3. Only with development consent**

Boarding houses; child care centres; community centres; dwelling houses in a heritage conservation area; educational establishments; home industries; home occupations; places of public worship; subdivision; any other purpose which by virtue of its type, function, scale, services provided and 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 Items 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 identify areas where a mix of residential with retail, light industry and commercial uses are appropriate; and
- (d) 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 (except in a heritage conservation area).

### **3. Only with development consent**

Advertising structures; backpackers hostels; boarding houses; car parking stations; child care centres; commercial premises; community centres; dwellings above shops; educational establishments; equipment hire centres; high technology industry; home industries; home occupations; light industries; private hotels; residential flat buildings; serviced apartments; shops; subdivision; any other purpose which by virtue of its type, function, scale, services provided and 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 [COMPREHENSIVE REDEVELOPMENT 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 developments especially where relocation is not a viable option.

### **2. Without development consent**

Dwelling houses (except in a heritage conservation area).

### **3. Only with development consent**

Advertising structures; attached dwellings; backpackers hostels; boarding houses; child care centres; community centres; educational establishments; home industries; home occupations; light industry; places of public worship; residential flat buildings; subdivision; warehouses; any other purpose which by virtue of its type, function, scale, services provided and 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; and
- (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; dwellings above shops; hotels; open space; public buildings; recreation facilities; refreshment rooms; service stations; shops; any other purpose which by virtue of its type, function, scale, services provided and 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 (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; and
- (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; and
- (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**

Car repair stations; child care centres; equipment hire centres; industry including high technology industry and light industry; road transport terminals; subdivisions; vehicle rental centres; warehouses; any other purpose which, by virtue of its nature, and services provided and 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 2(d) (Residential [Comprehensive Redevelopment] Zone);
- (b) to permit development that would otherwise be permitted in the Industrial 4 zone until the matters identified in Objective (a) have been resolved;
- (c) to ultimately link the residential precincts of Zetland and Beaconsfield and form one consolidated residential area; and
- (d) in the interim, 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**

Car repair stations; child care centres; equipment hire centres; industry including high technology industry and light industry; road transport terminals; subdivision; vehicle rental centres; warehouses; any other purpose which by virtue of its nature and the services provided and the products produced, distributed or sold is, in the opinion of Council, consistent with the objectives of the zone.

### **4. Prohibited**

Any purpose other than a purpose included in items 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; child care centres; open space; recreation areas; utility installations; any other purpose which by virtue of its type, function, scale and services 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 recreation needs of all residents and the work force of the district; and
- (b) to allow a diversity of recreation 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**

Amenities buildings; child care centres; community centres; recreation areas; sports clubs; subdivision any other purpose which by virtue of its type, function, scale and services 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; and
- (b) to safeguard the interests of the owners of such land.

### **2. Without development consent**

Arterial roads; arterial road widening.

### **3. Only with development consent**

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

### **4. Prohibited**

Any purpose other than a purpose included to in item 2 or 3.

## **ZONE NO. 10 (a) (EMPLOYMENT [BUSINESS PARK] ZONE)**

### **1. Objectives of Zone**

The objectives of this zone 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;
  - 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; light industry (other than an industry listed in Schedule 3 to the Environmental Planning and Assessment Regulation 1980); high technology industry; public buildings including administration facilities, residential flat buildings; shops which serve the daily convenience needs of the workforce of the locality; warehouses; subdivision; any other purpose which, by virtue of its nature and services provided and 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**

#### **Floor Space Ratio**

10. (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 instances due to environmental considerations, including but not limited to, overshadowing and privacy, development controls including, but not limited to, parking requirements and landscaping requirements or where a proposed development does not generally meet Council's planning, environmental and urban design objectives.
- (3) Notwithstanding sub-clause (1) and sub-clause (2), within Zone 2(c) Council shall not grant consent to development for non-residential purposes, or to the non-residential component of a mixed residential and non-residential development, which exceeds 50% of the maximum floor space ratio specified on the height and floor space ratio control map.
- (4) Sub-clause (3) does not apply to use for non-residential purposes of buildings existing and lawfully used for non-residential purposes on the appointed day.
- (5) In this clause non-residential does not include serviced apartments.
- (6) Notwithstanding sub-clause (1) and sub-clause (2), in the Employment 10(a) zone (being that land generally bound by South Dowling Street, Link Road, Epsom Road, Joynton Avenue and O'Dea Avenue) the council may grant 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.
- (7) The council shall not grant an additional floor space ratio referred to in sub-clause (6) unless the council is satisfied that the granting of additional floor space would assist in achieving Council's planning, environmental and urban design objectives.
- (8) Notwithstanding sub-clause (1) and sub-clause (2), within zone 2(d) Council may grant an additional floor space ratio of up to 0.5:1 for residential redevelopment of non-residential sites where sites are suitable and large enough to accommodate the increase in floor space and will assist in achieving the objectives of the zone and Council's planning, environmental and urban design objectives.

## **Height of Buildings**

11. (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 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, development controls, including but not limited to, parking requirements and landscaping requirements or where a proposed development does not generally meet Council's planning, environmental and urban design objectives.
- (3) Notwithstanding sub-clause (1) and sub-clause (2), in the Employment 10(a) zone (being that land generally bound by South Dowling Street, Link Road, Epsom Road, Joynton Avenue and O'Dea Avenue) the council may grant an increase in the permissible height limit to a maximum of 21 m if the existing lots are amalgamated to form a site equal to or greater than 20 ha.
- (4) The council shall not grant an increase in the permissible height limit referred to in sub-clause (3) unless the council is satisfied that the granting of additional height would assist in achieving Council's planning, environmental and urban design objectives.

## **Heritage Items**

12. (1) A person shall not, in respect of a building, work, relic, place or tree that is a heritage item –
  - (a) demolish or alter the building or work; or
  - (b) damage or move a relic including excavation for the purpose of exposing or removing a relic within the area;
  - (c) damage or despoil a place within the area; or
  - (d) erect a building or subdivide land on which the building, work or relic is situated or that comprises the place; or

- (e) damage any tree on which the building, work or relic is situated or on the land which comprises the place

except with the consent of the council.

- (2) The council shall not grant consent to a development under subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.

#### **Development in the Vicinity of a Heritage Item**

- 13. The council shall not grant consent to a development application to carry out development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

#### **Heritage Conservation Area**

- 14. (1) A person shall not, except with the consent of Council, in respect of a heritage conservation area –
  - (a) demolish or alter a building or work within the area;
  - (b) damage or move a relic including excavation for the purpose of exposing or removing a relic within the area;
  - (c) damage or despoil a place within the area;
  - (d) erect a building or subdivide land within that area,

except for development listed in Schedule 1.

- (2) The council shall not grant consent to a development application under subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage conservation area.
- (3) The council shall not grant a consent to an application under subclause (1), being an application to erect a new building or to alter an existing building, unless the council has made an assessment of:
  - (a) the pitch and form of the roof;
  - (b) the style, size, proportion and position of any openings for windows and doors; and

- (c) whether the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building are compatible with the materials used in the existing buildings on the site and in the heritage conservation area;
- (4) Nothing in clause 6.9 or 10 of State Environmental Planning Policy No. 4 - Development without Consent - authorises the carrying out of development referred to in subclause (1) without the need to obtain development consent.

### **Heritage Advertisements and Notifications**

- 15. (1) Except as provided by subclause (2):
  - (a) the provisions of sections 84, 85, 86, 87(1) and 90 of the Act apply to and in respect of -
    - (i) the demolition of a building or work that is a heritage item; and
    - (ii) the use of a building or land referred to in clause 16 for a purpose which, but for that clause, would be prohibited under this plan

in the same way as those provisions apply to and in respect of designated development; and
  - (b) where a person makes a development application to demolish a building or work that is a heritage item, the council shall not grant consent to that application until twenty-eight days after the council has notified the Secretary of the Heritage Council of its intention to do so.
- (2) Subclause (1) does not apply to the partial demolition of a heritage item if, in the opinion of the council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item in relation to the environmental heritage of the City of South Sydney.

### **Conservation Incentives**

- 16. (1) Notwithstanding clause 23, nothing in this plan prevents the council from granting consent to an application for the use, for any purpose, of a building that is a heritage item or the land on which the building is erected if it is satisfied that -
  - (a) the proposed use would have little or no adverse effect on the amenity of the area; and

- (b) the conservation of the building depends on the council granting consent under this clause.
- (2) When considering an application to erect a building on land on which there is situated a building which is a heritage item, the council may –
  - (a) for the purpose of determining the floor space ratio; and
  - (b) for the purpose of determining the number of parking spaces to be provided on the site,

exclude from its calculation of the floor space of the buildings erected on the land the floor space of the item, but only if the council is satisfied that the conservation of the building depends upon the council granting consent under this clause.

#### **Tree Preservation Orders**

- 17. A tree preservation order made, and in force immediately before the appointed day 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 and may be rescinded or varied in accordance with that clause.

#### **Community Use of School Facilities**

- 18. (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.

#### **Subdivision**

- 19. (1) A person shall not subdivide land to which this plan applies without the consent of the council.

#### **Acquisition of Land Reserved for Arterial Roads**

- 20. (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 under subclause (4) 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 and –

- (a) in the case of vacant land, with the concurrence of the RTA and the Corporation; or
- (b) in the case of land that is not vacant, with the concurrence of the RTA,

carry out development on land within Zone No. 9(a),

- (c) for a purpose for which development may be carried out on land in an adjoining zone; or
- (d) for any purpose which is compatible with development which may be carried out on land in an adjoining zone.



- (5) In deciding whether to grant concurrence to proposed development under this clause, the RTA and the Corporation must take the following matters into consideration:
- (a) the need to carry out development on the land for the purposes of classified roads or proposed classified roads within the meaning of the State Roads Act 1986;
  - (b) the imminence of acquisition;
  - (c) the likely additional cost to the RTA or the Corporation resulting from the carrying out of the proposed development.
- (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.

#### **Retailing of Bulky Goods in the Industrial Zone**

21. (1) This clause applies to land within Zone No. 4.
- (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 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 to an application for consent to carry out 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, 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.

**Development for the purpose of a backpacker hostels or serviced apartments**

- 22. (1) A person shall not carry out development for the purpose of backpackers hostel or services apartments (including using premises for the purposes of a backpackers hostel of serviced apartment that were formerly used as a dwelling house, residential flat building, boarding house, or private hotel) except with the consent of Council.
- (2) In determining a development application for the purposes of a backpackers hostel or serviced apartment, 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;
  - (b) the need to control the establishment of backpackers hostels and services 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.

### **Development in Residential Zones**

23. The council shall not grant consent to the use of a building within zones No. 2(a), No. 2(c) and No. 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 is satisfied that the local amenity is such that the building is no longer suitable for residential purposes.

### **Development for the purposes of light industry and warehouses in Zone No. 2(d)**

24. The council shall not grant consent to development for the purposes of light industry or warehouses in Zone No. 2(d) unless the development site was on the appointed day lawfully used for those purposes.

### **Advertising Signs and Structures in Residential Zones**

25. (1) This clause applies to land within zones No. 2(a), No. 2(c) and No. 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 in or on the premises; and
  - (c) a statement as to the nature of the business, trade, industry or profession carried in or on the premises; and
  - (d) the description or 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 zones No. 2(a), No. 2(c) and No.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 area.

#### **Development on all Land to which This Plan Applies**

26. (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) where the intensity or size of the development is such that significant demand is likely to be placed on water or sewerage services, arrangements satisfactory to the Water Board have been made for the provision of water, sewerage and drainage services.

#### **Flood Liable Lands**

27. 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 development is likely –
    - (i) to adversely impede the flow of flood waters on that land or land in its immediate vicinity
    - (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.
    - (iii) to aggravate the consequences of floodwaters flowing on that land or land in its immediate vicinity with regard to erosion or siltation.

- (iv) to have an adverse effect on the water table of that land or of land in its immediate vicinity.

### **Contaminated Land**

28. (1) Where Council considers that land subject to a development application may be contaminated due to the prior or current use of the land or prior or current use of land adjoining the subject site, it must not consent to the carrying out of development unless a site contamination study has been carried out.
- (2) Where a site has been identified as being contaminated Council shall not grant consent to carrying out development unless development will include remediation of the land to a standard acceptable to the Director of the Environmental Protection Authority.
- (3) The construction of any buildings, structures, or facilities on land to which this clause applies, as a consequence of development consent under sub-clause 2, must not commence unless the Director of the Environmental Protection Authority has provided written advice to Council that the land on which the development is to be carried out has been satisfactorily remediated to a standard appropriate for the proposed development.

### **Development in the vicinity of Alexandra Canal**

29. (1) A person shall not erect any structure on land within 15 m of the canal bank or mean high water mark except with the consent of Council.
- (2) The council shall not consent to the erection of any structure on land referred to in sub-clause (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.

## **SCHEDULE 1**

(Clause 14)

- internal alterations
- demolition of rear outbuildings
- demolition and erection of rear and side fences and masonry walls
- erection of rear carports and skillion roof garages
- ground floor rear extensions where the floor is no more than 1 metre above natural ground level and extends the existing roof line
- installation of skylights not visible from the street
- painting
- any works which remove later additions and return the building as closely as possible to its original appearance, e.g., the removal of front balcony enclosures.

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