

Warringah Local Environmental Plan 2000 (Amendment No 21)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (SRE0000195/S69)

KRISTINA KENEALLY, M.P., Minister for Planning

Clause 1 Warringah Local Environmental Plan 2000 (Amendment No 21)

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under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is Warringah Local Environmental Plan 2000 (Amendment No 21).

2 Aims of plan

The aims of this plan are as follows:

- (a) to adjust the boundaries of the localities of E5 Howard Avenue, E6 Oaks Avenue and E9 Pittwater Road under *Warringah Local Environmental Plan 2000 (the Principal plan)* and form a new locality (E21 Dee Why Town Centre) that better reflects the function and desired future character of the Dee Why Town Centre,
- (b) to make provision for the following matters (among others) in relation to development in Locality E21 Dee Why Town Centre:
 - (i) land use categories,
 - (ii) building form (including the calculation of building heights and determination of storeys),
 - (iii) open space requirements,
- (c) to remove the open space zoning of a Council car park site (being Lot 17, Section 16, DP 8172, Lot 18, Section 16, DP 8172, Lot 19, Section 16, DP 8172, Lot 2, DP 526306, Lot 43, DP 341020, Lot 44, Section 16, DP 8172, Lot 45, Section 16, DP 8172 and Lot 46, Section 16, DP 8172).

3 Land to which plan applies

This plan applies to the land shown edged heavy black on the map marked "Warringah Local Environmental Plan 2000 (Amendment No 21)—E21 Locality Map" deposited in the office of the Council of Warringah.

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Clause 4

4 Amendment of Warringah Local Environmental Plan 2000

Warringah Local Environmental Plan 2000 is amended as set out in Schedule 1.

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Schedule 1 Amendments

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(Clause 4)

[1] Clause 20 Can development be approved if it does not comply with a development standard?

Insert after clause 20 (3):

(4) This clause does not apply in relation to a development standard relating to maximum building height established by the Building Heights Map within the Dee Why Town Centre Locality Statement (E21).

[2] Dictionary

Insert in appropriate order in the definition of *the map*:

Warringah Local Environmental Plan 2000 (Amendment No 21)—E21 Locality Map

[3] Appendix E Dee Why Locality Statements

Insert after the matter relating to Locality E20:

LOCALITY E21 DEE WHY TOWN CENTRE

DEFINITIONS

For the purposes of the provisions of this Appendix relating to the Dee Why Town Centre locality:

Above Podium Elements Map means the map marked "Map E21 Above Podium Elements" as in force at the date that *Warringah Local Environmental Plan 2000 (Amendment No 21)* took effect.

existing ground level, in relation to land, means the level of the land at the date that *Warringah Local Environmental Plan 2000 (Amendment No 21)* took effect.

Building Heights Map means the map marked "Map E21 Building Heights" as in force at the date that *Warringah Local Environmental Plan 2000* (*Amendment No 21*) took effect.

proposed new road means the proposed road to be located on the east side of Site A as shown on the Building Heights Map.

Site Map means the map marked "Map E21 Site Map" as in force at the date that *Warringah Local Environmental Plan 2000 (Amendment No 21)* took effect.

Town Square, Pedestrian Connections and Public Open Space Map means the map marked "E21 Map Town Square, Pedestrian Connections and Public

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Open Space" as in force at the date that *Warringah Local Environmental Plan* 2000 (Amendment No 21) took effect.

Site A means the land shown distinctively edged and designated as "Site A" on the Site Map.

Site B means the land shown distinctively edged and designated as "Site B" on the Site Map.

DESIRED FUTURE CHARACTER

Introduction

The Dee Why Town Centre locality will be an attractive living centre that sustains the social, economic and environmental needs of its community and visitors, characterised by high quality housing that is balanced with an appropriate mix of shopping, business, cultural and recreational facilities consistent with its role as a major centre (as referred to in the *North East Subregion—Draft Subregional Strategy* published by the Department of Planning in July 2007).

The locality is recognised as a distinctive civic and commercial hub in the Northern Beaches as well as being a destination for the wider community for the purposes of civic activities, recreation, business, employment and shopping.

The locality will continue to grow as one of the region's most significant and vibrant service centres serving the social, economic and recreational needs of the local community and the region.

Building form

The Dee Why Town Centre locality will be characterised by a unified and consistent building form and provide for a diversity of uses (retail, commercial, community, recreational, residential and car parking).

Buildings will be of the highest design quality, and use attractive, durable materials and finishes. The development will achieve architectural and urban design excellence and be environmentally sustainable through measures such as passive solar design, water harvesting or reuse (or both) and use of renewable materials.

The street edges will be lined with a bustling mix of retail shops, cafes and restaurants. To achieve this positive reinforcement of the street edge and a good human to built form scale, a 3 storey podium to street wall will define the street edge of the proposed new road adjoining Site A, while a 4 storey podium to street wall will define the Oaks Avenue frontage to Site A and surrounding street edge of Site B. Building setbacks and heights will be designed to ensure adequate levels of natural sunlight and to ensure a high level of amenity to occupiers of the buildings as well as the adjacent public domain and surrounding developments. Upper levels should not overhang ground level

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with the exception of balconies and other minor extrusions of building elements which are encouraged to pronounce articulation and modification of building facades.

Ground floor levels of development will be highly active and accessible to the street and create a lively and active ambience. Ground floor retail development is to be at grade with the footpaths and provide opportunities for a generous promenade and distinctive street tree planting to provide shade and shelter.

The pattern of development will reflect the underlying urban form in Dee Why with predominantly east-west orientated buildings and high levels of visual and physical permeability. The streets will be legible and lead to well designed and publicly accessible open spaces. Taller buildings will be distributed across the town centre from west to east to establish a coordinated, modulated and varied skyline to protect the scenic qualities of Dee Why, its views and vistas and to maintain adequate sunlight access within Dee Why.

Streetscape

The Howard Avenue street frontage of Site B will be tree lined with distinctive coastal indigenous species that provide landscape elements while not obscuring the views into and out of the town square from Pittwater Road or Howard Avenue.

Tower buildings

Two iconic, slimline towers will be provided in the western part of the locality (Site B), with one smaller tower provided in the eastern part of the locality (Site A). The towers will largely provide for a transition in building height from west (Pittwater Road) to east (proposed new road) and respond to the surrounding natural escarpment. The Building Heights Map prescribes the maximum building heights for the locality.

The towers will be spatially separated to provide well designed, generous, usable public spaces and provide good sunlight penetration to the southern side of Oaks Avenue and the Town Square. This will ensure the Town Centre is provided with a high level of amenity for the public throughout the entire year.

Mid-rise elements on Site B facing Oaks Avenue are to reflect the simple clarity displayed by the tower and podium elements and floor area limits stipulated are not to be considered as entitlements, but if achieved, are subject to conformity with other controls and the achievement of satisfactory urban design quality.

Retail and commercial uses

Dee Why must provide additional employment opportunities and commercial space for businesses, consistent with its role as a major centre (as referred to in the metropolitan strategy known as *City of cities—A plan for Sydney's future* published by the Department of Planning in December 2005). The Dee

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Why Town Centre locality will facilitate its commercial focus and functions by providing at least 2 levels (excluding the ground floor) of development for non-residential purposes contributing to the locality's service functions, as well as providing for enhanced employment opportunities.

Shops and cafes with active frontages will give a sense of liveliness, vitality and safety within the locality. Double storey height colonnades adjoining the proposed Town Square will provide strategic links to improve the efficiency of the locality and an enhanced retail environment for businesses and patrons alike. On the edges of streets and public spaces, buildings will be provided with continuous colonnades or pedestrian awnings.

Design and management solutions will be provided that will provide for an appropriate mix and diversity of retail uses that will encourage and facilitate the diversity of the shopping experience.

Signage associated with new developments will be high quality, innovative, co-ordinated and minimised to avoid visual clutter and will complement the overall urban design, streetscape and architectural quality and amenity of the centre for its patrons whilst also achieving a balanced and reasonable level of exposure for businesses.

Residential amenity

Exemplary and innovative treatments will be applied to the configuration and design of communal access and recreational areas within residential elements that will promote a socially effective urban village.

Mobility, traffic management and parking

Improved vehicle access and circulation in the Dee Why Town Centre locality will be achieved by good design and management of traffic flows within the existing and proposed new roads servicing the locality.

There will be a new north-south street, between Howard and Oaks Avenue, along the eastern side of the Council site adjacent to St. Kevin's Church (specifically involving Lot 2, DP 526306 and Lot 19, DP 8172).

Traffic will circulate in a one way anti-clockwise direction around the locality via Oaks Avenue, the proposed new road and Howard Avenue.

Improved vehicle access and circulation within the locality is a prerequisite to redevelopment. Development will reinforce the prioritisation of pedestrian movements and networks and make the locality a safer, enjoyable and attractive town centre for the public and existing and future residents.

Car parking, principally underground, will be provided to accommodate the demand of the additional residential, retail and commercial uses. On Site B, only one level of above ground car parking is allowed. This car parking will be located on Level 2. Appropriate architectural screening of the car park level will occur and is to be visually integrated and coordinated with the design of building facades of the remainder of the development to ensure that vehicles

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will be screened completely from surrounding vantage points and to protect the streetscape and urban design quality of the development. Where car parking adjoins a street frontage, the amenity of the adjoining and nearby uses are to be protected. Loading facilities and waste collection facilities will be accommodated using intelligent, innovative design and in a manner that does not adversely impact on the visual amenity of the public domain or conflict with pedestrian access or the amenity of adjoining and nearby residential properties.

Minimal disruption to retail and commercial activity at street level will occur by minimising the width of the footpath crossings and vehicle entrances, by ensuring that loading facilities are substantially enclosed by occupied floor space and by high standards of civic design applied to portions of loading dock and car park entrances that would be visible from the street.

Town square and open space

A Town Square will be the heart of the community. It will contain attractive, useable open spaces interlinked by a secure network of pedestrian connections.

The proposed Town Square will address Howard Avenue in accordance with the Town Square, Pedestrian Connections, and Public Open Space Map. It will be a flexible, multi-use space that will be suitable for markets, entertainment and community events and as a meeting place for the general public. Colonnades will surround the perimeter of the Town Square providing all weather access to the ground floor retail outlets. These retail uses will provide opportunities for alfresco dining, casual seating and recreation. Residential accommodation situated above will provide casual surveillance of the Town Square and bring life and vitality to the Town Square throughout the day. An appropriate canopy of indigenous tree species will also be provided throughout the Town Square to enhance its amenity.

North-south pedestrian connection

A north-south pedestrian connection will link the proposed Town Square with Oaks Avenue and will provide a strong physical and visual connection between Howard Avenue and Oaks Avenue ensuring a high level of permeability of the locality. A north-south pedestrian connection leading from the proposed Town Square to Oaks Avenue will introduce a generous pedestrian and retail precinct. The pedestrian connection will be defined by retail development, with double storey colonnades providing access on a 24 hour, 7 days a week basis, and be designed to ensure all weather access to ground level retail, food and beverage outlets. The pedestrian connection will have a clear width of not less than 14 metres to ensure high levels of sunlight access and provide view lines through the development in accordance with the Town Square, Pedestrian Connections and Public Open Space Map.

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Hydrology

Future development of the locality is to be designed to take account of, and be compatible with, the hydrological conditions associated with the Dee Why Lagoon South Catchment.

Stormwater management

Future development is to be designed and located to take into account stormwater management issues and is to incorporate water sensitive urban design and ecologically sustainable development principles. Innovative design solutions are essential and must be consistent with contemporary best design practices. They are to minimise stormwater impacts (including stormwater quantity and quality impacts on the Dee Why Lagoon system).

Finished floor levels and basement car park entry levels are to incorporate adequate freeboards to protect against the entry of stormwater from Council's street drainage system.

LAND USE

Category One

Development for the purposes of the following:

- community facilities
- shops on the ground and first floor level within Site B
- shops on the ground floor level within Site A
- restaurants on the ground floor

Category Two

Development for the purposes of the following:

- business premises
- child care centres
- entertainment facilities
- health consulting rooms (not on ground floor level)
- hotels
- housing on the second floor level and above
- medical centres (not on ground floor level)
- offices on the second floor level and above within Site B
- offices on the first floor level and above within Site A
- places of worship
- recreation facilities

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- registered clubs
- shops
- short-term accommodation
- other buildings, works, places or land uses that are not prohibited or in Category 1 or 3

Category Three

Development for the purposes of the following:

- agriculture
- animal boarding or training establishment
- bulky goods shops
- further education
- hire establishments
- housing on the ground floor level and first floor level
- industries
- motor showrooms
- offices on the ground and first floor level within Site B
- offices on the ground floor level within Site A
- primary schools
- retail plant nurseries
- service stations
- vehicle repair stations
- veterinary hospitals
- warehouses

PROHIBITED DEVELOPMENT

Development for the purpose of the following is prohibited within this locality:

- brothels
- canal estate development
- extractive industries
- heliports
- potentially hazardous industries
- potentially offensive industries
- vehicle body repair workshops

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BUILT FORM

BUILDING HEIGHT

Note. The building height controls establish a vertical limit to which a future building may be constructed. The height limits are a maximum height and not an expression of uniform height over the entire site.

The building height control is not to be read in isolation. A suite of development controls apply to land within the locality that must be considered concurrently to assist in determining the manner, form and configuration of future development.

Objectives

The objectives of the building height controls for the locality are as follows:

- (a) to ensure that future development responds to the desired scale and character of the locality (referred to in the Desired Future Character Statement for this locality),
- (b) to ensure that future development responds to the surrounding escarpment and that building heights do not dominate the surrounding topography,
- (c) to limit overshadowing to the front set back areas on the southern side of Oaks Avenue opposite Site A during mid-winter (22 June),
- (d) to limit overshadowing to the footpath on the southern side of Oaks Avenue opposite Site B during mid-winter (22 June),
- (e) to limit overshadowing to the Town Square during mid-winter (22 June).

Controls

Buildings on any land in the locality are to be no more than the maximum height (in metres AHD) shown for the land on the Building Heights Map.

Despite the building envelopes established by the Building Heights Map, a building envelope boundary of the following proposed towers may be varied by up to 2 metres in a horizontal direction, but only if the floor area of any storey of the tower after such a variation does not exceed the floor area of any such storey had the variation not occurred:

- (a) the proposed tower shown on that map as having a maximum height of 52.5 metres AHD (Site A),
- (b) the proposed tower shown on that map as having a maximum height of 75 metres AHD (Site B),
- (c) the proposed tower shown on that map as having a maximum height of 78 metres AHD (Site B).

No less than 2 hours of sunlight must be provided between 10am and 2pm to the front setback areas on the Southern side of Oaks Avenue opposite Site A in midwinter (June 22).

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No less than 2 hours of sunlight must be provided between 10am and 2pm to the public footpath on the Southern side of Oaks Avenue opposite Site B at a distance of 6 metres from the property boundary in midwinter (June 22).

No less than 4 hours of sunlight must be provided midwinter (June 22) to the proposed Town Square.

Only temporary structures may be erected on the land indicated as Pedestrian Connections on the Town Square, Pedestrian Connections and Public Open Space Map.

In these controls, *height*, in relation to a building, means the distance, measured vertically between the top most point of the building and the existing ground level below.

OAKS AVENUE ABOVE PODIUM PROVISIONS

Site A

Application: The following provisions apply to buildings on the Site A Oaks Avenue podium land as shown on the Above Podium Elements Map (*the Site A Oaks Avenue podium land*).

The following provisions apply despite the maximum building height control set out above and in the Building Heights Map.

Objectives

The objectives of the above podium provisions for the Site A Oaks Avenue podium land are as follows:

- (a) to allow buildings fronting Oaks Avenue on the Site A Oaks Avenue podium land to have components above 28.5 metres AHD level permitted by the building height control and the Building Heights Map *(the podium level)*,
- (b) to control building bulk above the podium level on the Site A Oaks Avenue podium land,
- (c) to limit the depth of buildings and control the gross floor area above the podium level of 28.5 metres AHD on the Site A Oaks Avenue podium land,
- (d) to limit overshadowing to the front setback areas on the southern side of Oaks Avenue opposite Site A in midwinter (June 22),
- (e) to allow design flexibility.

Controls

Despite the maximum building height control and the Building Heights Map, a building may be erected on the Site A Oaks Avenue podium land that has a component above 28.5 metres AHD, but only if:

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(a) Gross floor area

the total gross floor area of the components of the buildings above the podium level does not exceed $2,000m^2$, and

(b) Separation in building wall

a minimum of 20 per cent of the east-west length of Site A above the podium level comprises physical breaks or separation between buildings, and

(c) Rear building alignment

any component of the building above the podium level does not extend north beyond the Site A Oaks Avenue rear building alignment line as shown on the Above Podium Elements Map (being the line 32 metres from the Oaks Avenue front building line (which is 2.275 metres from the Oaks Avenue Site A boundary)), and

(d) Building plane

the building is sited or located under a plane that projects at an angle of 29 degrees from the height of 28.5 metres AHD above the Oaks Avenue front building line as shown on the Above Podium Elements Map (which is 2.275 metres from the Oaks Avenue Site A boundary), and

(e) Shadowing–Oaks Avenue south side

no less than 2 hours of sunlight is provided between 10am and 2pm to the front setback areas on the southern side of Oaks Avenue opposite Site A in midwinter (June 22).

Site B

Application: The following provisions apply to buildings on the Site B Oaks Avenue podium land as shown on the Above Podium Elements Map (*the Site B Oaks Avenue podium land*).

The following provisions apply despite the maximum building height control set out above and in the Building Heights Map.

Objectives

The objectives of the above podium provisions for the Site B Oaks Avenue podium land are as follows:

- (a) to allow buildings on the Site B Oaks Avenue podium land to have components above 31 metres AHD level permitted by the building height control and the Building Heights Map (*the podium level*),
- (b) to control building bulk above the podium level on the Site B Oaks Avenue podium land,
- (c) to limit the depth of buildings and control the gross floor area above 31 metres AHD,

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- (d) to ensure that there is an adequate separation between the above podium buildings envelopes set out in the Building Heights Map for the towers and surrounding podium of the Howard Avenue side of the site and the buildings south of the Site B rear building alignment,
- (e) to limit the overshadowing of the footpath on the southern side of Oaks Avenue opposite Site B,
- (f) to allow design flexibility.

Controls

Despite the maximum building height control and the Building Heights Map, a building may be erected on the Site B Oaks Avenue podium land that has a component above 31 metres AHD, but only if:

(a) Gross floor area

the total gross floor area of the components of the buildings on the Site B Oaks Avenue above the podium level does not exceed 3,800m², and

(b) Separation in building wall

a minimum of 20 per cent of the east-west length of Site B above the podium level comprises physical breaks or separation between buildings, and

(c) Rear building alignment

any component of the building above the podium level does not extend north beyond the Site B rear building alignment line shown on the Above Podium Elements Map (being the line 27.5 metres from the Oaks Avenue front building line), and

(d) Shadowing–Oaks Avenue south side

no less than 2 hours of sunlight is provided between 10am and 2pm to the public footpath on the southern side of Oaks Avenue opposite Site B at a distance of 6 metres from the property boundary in midwinter (June 22).

PROPOSED NEW ROAD ABOVE PODIUM PROVISIONS

Application: The following provisions apply to buildings on the Site A Proposed New Road podium land as shown on the Above Podium Elements Map (*the Site A Proposed New Road podium land*).

The following provisions apply despite the maximum building height control set out above and in the Building Heights Map.

Objectives

The objectives of the above podium provisions for the Site A Proposed New Road podium land are as follows:

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- (a) to allow buildings on the Site A Proposed New Road podium land to have components above 25 metres AHD level permitted by the building height control and the Building Heights Map (*the podium level*),
- (b) to control building bulk above the podium level on the Site A Proposed New Road podium land,
- (c) to limit the depth of buildings and control the gross floor area above the podium level of 25 metres AHD,
- (d) to allow design flexibility.

Controls

Despite the maximum building height control and the Building Heights Map, a building may be erected on the Site A Proposed New Road podium land that has a component above 25 metres AHD, but only if:

(a) Gross floor area

the total gross floor area of the components of the buildings on the Site A Proposed New Road podium land above the podium level does not exceed $1,000m^2$, and

(b) Rear building alignment

any component of the building above the podium level does not extend west beyond the proposed new road rear building alignment line as shown on the Above Podium Elements Map (being the line 19.5 metres from the proposed new road front building line), and

(c) Building plane

the building is sited or located under a plane that projects at an angle of 45 degrees from the height of 25 metres AHD above the proposed new road front building line toward the rear building alignment (as shown on the Above Podium Elements Map), and

(d) Maximum height

the height of the building does not exceed 43.5 metres AHD.

DESIGN EXCELLENCE

Objectives

The objectives of the following control is to ensure that buildings on Site A and Site B exhibit design excellence.

Control

Development consent must not be granted for development involving the construction of a new building or external alterations to an existing building unless the consent authority has considered whether the proposed development exhibits design excellence.

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In considering whether development exhibits design excellence, the consent authority must have regard to the following matters:

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
- (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,
- (c) whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency,
- (d) whether the architect responsible for the proposed design has an outstanding reputation in architecture,
- (e) whether satisfactory arrangements have been made to ensure that the proposed design is carried through to the completion of the development concerned.

ALLOWANCE FOR EXTERNAL ANCILLARY PLANT AND ROOF ACCESS

Objectives

The objectives of the controls relating to external ancillary plant and roof access are as follows:

- (a) to ensure that the height, scale and number of permanent or temporary eternal ancillary structures located on roofs of buildings do not add to the perceived height of buildings or detract from the roof form of buildings,
- (b) to ensure that roof forms are attractive when viewed from surrounding vantage points, including when viewed, at a short distance, from the public domain and surrounding apartment buildings as well as when viewed, from a long distance, from the southern and western hill sides that enjoy northerly and easterly aspects, respectively, over Dee Why,
- (c) to promote low-scale vegetative landscaping of podium roofs of buildings and the use of podium roof spaces as areas for passive recreation for residents of the buildings concerned.

Controls

The height of any external ancillary plant or access point is to be minimised and should not exceed 3.0 metres. The access point is to be suitably integrated with either landscaping or architectural elements of the roof design. The total area of such plant and access points must not exceed 10% of the roof area.

Any balustrade or similar safety restraint (except a building parapet) is to be set in from the roof edge a minimum distance of 3 metres.

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Any external ancillary plant or access point is to be integrated with the architectural design of the building.

Any external ancillary plant or access point is to be centrally located within the roof area to minimise or completely avoid being visible from the public domain in close proximity to the building.

No external ancillary plant is to be located on the roof of the tall tower located on Site A or the two slimline towers on Site B.

COMPLYING DEVELOPMENT

The following Table shows the development that is complying development in the Dee Why Town Centre locality. Column A describes the development and Column B shows the requirements that the development must comply with to be complying development.

Column A	Column B
Development for the purpose of:	
 Attached houses or apartment buildings, being: internal alterations (excluding balcony enclosures and other devices that are externally visible), 	As described in Schedule 12—Part A
• the erection of any garages associated with any such houses or buildings,	
• the erection of any outbuildings associated with any such houses or buildings.	
Businesses, offices or shops, being:	As described in Schedule 12—Part D
• a different use resulting from a change of use from one type of business, office or shop to another type of business, office or shop,	
• internal alterations to business premises, offices or shops.	

BY AUTHORITY