



New South Wales

Sutherland Shire Local Environmental Plan 2015 (Amendment No 16)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

**MANJEET GREWAL, CHIEF EXECUTIVE OFFICER
SUTHERLAND SHIRE COUNCIL**
As delegate for the local plan-making authority

Sutherland Shire Local Environmental Plan 2015 (Amendment No 16)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Sutherland Shire Local Environmental Plan 2015 (Amendment No 16)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to land in Zone E4 Environmental Living under *Sutherland Shire Local Environmental Plan 2015*.

Schedule 1 **Amendment of Sutherland Shire Local Environmental Plan 2015**

[1] **Schedule 2 Exempt development**

Insert in appropriate order—

Fences for swimming pools in Zone E4

Must not be on bush fire prone land, unless constructed of non-combustible materials.

Note. Swimming pool fences must comply with the requirements of the *Swimming Pools Act 1992*.

Fences (other than swimming pool fences) in Zone E4

- (1) Must not be constructed or installed—
 - (a) on a lot, or along a common boundary of a lot, that contains a heritage item or a draft heritage item, or
 - (b) along the boundary of, or within the setback area of, a primary or secondary road within a heritage conservation area or draft heritage conservation area, or
 - (c) on a flood control lot within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, or
 - (d) on land that is identified as being in a foreshore area.
- (2) Must not be higher than 1.8m above ground level (existing).
- (3) Must not be of masonry construction to a height that is more than 1.2m above ground level (existing).
- (4) If it includes an entrance gate—must not have a gate that opens outwards.
- (5) If it is located in a core koala habitat within the meaning of *State Environmental Planning Policy (Koala Habitat Protection) 2019* or in a movement corridor used by koalas—must be constructed or installed in accordance with any relevant council policy or guideline under that Policy.
- (6) If it is located on bush fire prone land—must be constructed of non-combustible materials or hardwood.
- (7) If it is constructed of metal components—must be of low reflective, factory pre-coloured materials.
- (8) Must not be an electrical fence or use barbed wire.
- (9) If located along the boundary of, or within the setback area to, a primary or secondary road—
 - (a) must not be more than 1.2m above ground level (existing), and
 - (b) must be open for at least 20% of the area of the fence that is more than 400mm above ground level (existing), with any individual solid element of the fence above this height being no more than 350mm in width with a minimum aperture of 25mm.
- (10) If a lot has a frontage to a secondary road or roads, subclause (9) only applies to 50% of the length of all contiguous secondary road boundaries, measured from the corner with the primary road boundary.
- (11) Subclause (9)(b) does not apply to the part of the fence along the side boundary and within the setback area to the primary road.

- (12) Despite subclauses (2) and (9), if the fence is erected on a sloping site and stepped to accommodate the fall in the land—
- (a) a fence that is required to be not more than 1.2m above ground level (existing), must not be more than 1.5m above ground level (existing) at each step, and
 - (b) a fence that is required to be not more than 1.8m above ground level (existing), must not be more than 2.2m above ground level (existing) at each step.

Note. If the fence is a dividing fence, the *Dividing Fences Act 1991* also applies.

[2] Schedule 3 Complying development

Omit “clause 6.4” from clause 4(1)(j). Insert instead “clause 6.1”.

[3] Schedule 3, clause 4(1)(l)

Insert after clause 4(1)(k)—

- (l) a garage.

[4] Schedule 3, clause 5(a)

Omit the paragraph. Insert instead—

- (a) the erection of a roof terrace on the topmost roof of—
 - (i) an existing or a new dwelling house, or
 - (ii) an existing or a new outbuilding,

[5] Schedule 3, clause 7(1)

Insert “(other than a fence, pathway, paving, driveway or hard stand area)” after “ancillary development”.

[6] Schedule 3, clause 7(3)

Omit the subclause. Insert instead—

- (3) If a different setback is specified in Division 4 for particular ancillary development in respect of a boundary, that setback applies rather than the setback specified in this clause.

[7] Schedule 3, clause 8

Omit the clause. Insert instead—

8 Earthworks, retaining walls and structural support

- (1) Fill must not be more than 0.6m above ground level (existing).
- (2) Fill, for the purpose of erecting a new dwelling house, must be contained within the footprint of the dwelling house.
- (3) The maximum depth of an excavation below ground level (existing) is as follows—
 - (a) if within 1m of a property boundary—0.3m,
 - (b) if 1m or more from the closest property boundary—0.6m,
 - (c) if within the footprint of a swimming pool—
 - (i) 2m, or
 - (ii) 1m, if the land is identified as class 3 or class 4 on the Acid Sulfate Soils Map or within 40m of a waterbody (natural).

- (4) Fill more than 150mm above ground level (existing) must not cover more than 50% of the landscaped area of a lot.
- (5) If the fill is imported to the site—be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*.
- (6) If fill is to be placed on fill that was previously placed on land under this clause, a reference in this clause to ground level (existing) is the ground level (existing) immediately before any fill was placed on the land under this clause.
- (7) Natural rock outcrops greater than 5m² in area must be retained on any lot on which development is carried out.
- (8) Earthworks must be contained by a retaining wall or structural support.
- (9) The retaining wall or structural support—
 - (a) must not be more than 1.2m high, measured vertically from the base to its uppermost portion, and
 - (b) must be at least 1.5m from each property boundary, and
 - (c) if more than 0.6m high, must be certified as structurally sound by a professional engineer, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load, and
 - (d) must have adequate drainage lines connected to the existing stormwater drainage system for the site, and
 - (e) be designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and
 - (f) must be separated from any retaining wall existing building foundations or other structural support on the site by at least 2m, measured horizontally, and
 - (g) must be installed in accordance with any manufacturer’s specifications, and
 - (h) if the structural support is a sloping embankment or batter—
 - (i) must not have a slope of more than 20° from horizontal, and
 - (ii) must include erosion protection and soil stabilisation measures to permanently hold the slope in place.

[8] Schedule 3, clause 12(4)

Omit the subclause.

[9] Schedule 3, clause 15(3A)

Insert after clause 15(3)—

- (3A) The ground floor of any dwelling house must not be more than 0.6m above ground level (existing).

[10] Schedule 3, clause 26, heading

Insert “, balconies, terraces, verandahs” after “decks”.

[11] Schedule 3, clause 26

Insert “, balcony, terrace, verandah” after “deck” wherever occurring.

[12] Schedule 3, clause 28, heading

Insert “or spa pools” after “Swimming pools”.

[13] Schedule 3, clause 28

Insert “or spa pool” after “swimming pool” wherever occurring.

[14] Schedule 3, clause 32

Insert after clause 31—

32 Garages

A new garage, or any garage that has been altered or added to—

- (a) must not occupy an area greater than 40m², and
- (b) must not be greater than 4m in height above ground level (existing), and
- (c) must be set back behind the building line, and
- (d) must not have a finished floor level more than 0.6m in height above ground level (existing), and
- (e) must be accessed by a driveway that has sufficient turning space so that vehicles are able to enter and leave the premises in a forward direction, and
- (f) garage doors facing a road must not have a width greater than—
 - (i) 6.4m, or
 - (ii) 3.2m, if the lot has a width of less than 12m at the building line, and
- (g) must be accessed from one of the following (within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*) if it is a detached garage on a lot with a width of less than 8m at the building line—
 - (i) a secondary road,
 - (ii) a parallel road,
 - (iii) a lane, and
- (h) must comply with AS 2890.1:2004, *Parking facilities—Off-street car parking*.

[15] Schedule 3, Part 2

Omit “clause 5.9 of this Plan” wherever occurring.

Insert instead “Part 3 of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*”.

[16] Schedule 3, Part 2

Omit “*Native Vegetation Act 2003*” from the second note.

Insert instead “*Biodiversity Conservation Act 2016*”.