

Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989) (1989 EPI 443)

[1989-443]



New South Wales

Status Information

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Provisions in force

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

Notes—

- **See also**
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2005](#)

Authorisation

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Contents

Part 1 Preliminary	5
1 Name of plan	5
2 Aims, objectives etc.....	5
3 Land to which plan applies	6
4 Relationship to other environmental planning instruments	6
5 Definitions	7
6 Adoption of model provisions	13
7 Consent authority	13
Part 2 General restrictions on development	14
8 Zones indicated on the map	14
9 Zone objectives and development control table.....	15
Part 3 Special provisions	26
Division 1 Development control	26
10 Subdivision of land generally.....	26
11 Erection of dwelling-houses within Zone No 2 (a).....	26
12 Development in industrial zones	27
13 Captain Cook Drive.....	27
14 Protection of certain land within Zone No 5 (a) or 7 (b).....	28
15 Development within Zone No 6 (a).....	28
16 Consideration of use of certain land by tourists	29

17 Development of certain land in Zone No 6 (b) or 9 (a)	29
18 Development adjacent to or adjoining Zone No 7 (a)	29
19 Development within Zone No 7 (b)	29
20 Development of certain land within Zone No 7 (b)	30
21 Consideration of environmental effect—protection of wetlands	30
22 Restriction on development of wetland areas	31
23 Aircraft noise—restriction on development	32
23AA Aircraft noise—restriction on certain development on land in Kurnell village	33
23A Protection of heritage items and relics	33
23B Development of known or potential archaeological sites	34
23C Conservation incentives	35
23D Advertisement of heritage development applications	35
Division 2 Concurrence, consultation etc	35
24 Water Board requirements	35
25 Department of Water Resources requirements	35
26 Consultation with government bodies	36
27 Development control—coastal areas	36
28 Consideration of certain reports	36
Division 3 General	37
29 Development control codes and design and management guidelines	37
30 Sand extraction	37
31 Acquisition of reserved lands	38
32 Suspension of covenants	38
33 Development for certain additional purposes	39
34 How are trees and bushland vegetation preserved?	39
35 What is exempt development?	41
36 What is complying development?	42
Schedule 1 Development for certain additional purposes	44
Schedule 2 Archaeological sites	45
Schedule 3 Heritage items	46

Schedule 4	46
Schedule 5 Exempt development	47
Schedule 6 Complying development—general provisions	64

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New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989)*.

2 Aims, objectives etc

(1) The general aims and objectives of this plan are:

- (a) to conserve the natural environment of the Kurnell Peninsula and ensure that development is managed having regard to the environmental, cultural and economic significance of the area to the nation, State, region and locality,
- (b) to apply environmental performance criteria which will ensure that the environment is not adversely affected by development,
- (c) to promote, encourage and facilitate opportunities for commercial, industrial and tourist development consistent with the conservation of the unique ecological and landscape attributes of the Kurnell Peninsula,
- (d) to ensure that development is co-ordinated to allow the economic and efficient provision of public services and amenities having regard to the environment,
- (e) to promote the sharing of responsibility for environmental planning on the Kurnell Peninsula between the Council, the Department of Planning, the National Parks and Wildlife Service, the Department of Agriculture, the Water Board and the Department of Water Resources, and
- (f) to protect, enhance and utilise the tourism, leisure and recreation potential of the Kurnell Peninsula so far as it is consistent with the conservation of its ecological and heritage value.

(2) The particular environmental planning aims and objectives of this plan are:

- (a) to preserve and protect the wetland areas of the Kurnell Peninsula in the environmental and economic interest of the State, region and locality,
- (b) to identify lands having high value and strategic importance as local or regional open space and national park or nature reserve areas and to facilitate bringing these lands into public ownership,
- (c) to protect the health, well-being and safety of the local community,
- (d) to identify and conserve areas, sites and features of natural, ecological, historic or cultural significance,
- (e) to conserve and manage the aquatic environment and its resources in the interests of the community and the oyster, prawn and fishing industries,
- (f) to identify and protect lands having regional and international significance as wildlife habitats,
- (g) to ensure that the recommendations of any relevant risk assessment or transportation studies are implemented,
- (h) to control and progressively phase out sand mining and to facilitate the rehabilitation of degraded lands, and
- (i) to conserve the environmental heritage of the Kurnell Peninsula.

3 Land to which plan applies

- (1) This plan applies to the land within the Shire of Sutherland, known as Kurnell Peninsula, and adjacent waterways, as shown on the map, with boundaries as indicated on the map.
- (2) Despite subclause (1), this plan does not apply to the following land:

Land at Parraweena Road, Taren Point, adjoining Woollooware Bay, to which [Sutherland Shire Local Environmental Plan 2000](#) applies.

4 Relationship to other environmental planning instruments

This plan repeals the following environmental planning instruments:

- (a) *Sydney Regional Environmental Plan No 3—(Kurnell Peninsula)*,
- (b) *Sydney Regional Environmental Plan No 12—Dual Occupancy* to the extent to which, immediately before the commencement of this plan, that plan applied to the land to which this plan applies,
- (c) *State Environmental Planning Policy No 5—Housing for Aged or Disabled Persons* to the extent to which, immediately before the commencement of this plan, that plan

applied to the land to which this plan applies,

(d) *Interim Development Order No 33—Shire of Sutherland*, and

(e) such other deemed environmental planning instruments and local environmental plans as, immediately before the commencement of this plan applied to the land to which this plan applies, to the extent to which those instruments applied to that land.

5 Definitions

(1) In this plan:

access channel means a channel or passage:

(a) which is within tidal waters, and

(b) which was created by dredging or other mechanical operations, and

(c) which provides or has provided water access to a permissible commercial, recreation or public facility, and

(d) which provides water access to any of the following properties at Woollooware Bay between Taren Point and Shell Point:

(i) Lot 21 DP 715660 at 33–39 Bay Road, Taren Point, or

(ii) Lot 2 DP 816949 at 1A Atkinson Road, Taren Point, or

(iii) Lots 131 and 132 DP 737027 at 13 and 15 Mangrove Lane, Taren Point, or

(iv) Lot 1 DP 132973 at 17–21 Mangrove Lane, Taren Point.

accredited officer has the same meaning as in the Act.

advertising means the use of a building or place for the external display of symbols, messages or other devices for promotional purposes, whether or not the display involves the erection of a structure or the carrying out of a work.

aid to navigation means a buoy, sign, light or other structure located on a waterway or on land, which is designed to assist the safe and efficient movement of vessels on a waterway.

ANEF, in relation to land, means the Australian Noise Exposure Forecast for the land, as notified to the Council from time to time by Airservices Australia.

aquaculture means the cultivation of the resources of the sea or estuarine waters for the propagation or rearing of marine, estuarine or freshwater fish or plants or other organisms but does not include oyster farming.

archaeological site means a site described in Schedule 2.

Australian Standard 2021 means Australian Standard AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction* published by Standards Australia on 10 August 2000.

bulky goods sales room or showroom means a building or place used for the retail sale (including sale by auction) or display of goods or materials (including motor powered or motor drawn vehicles and agricultural or industrial plant or machinery), where the individual units of goods or materials sold or displayed are of such a size, shape or weight as to require:

- (a) a large area for handling, storage or display, or
- (b) direct vehicular access to the site by members of the public, for the purpose of loading the goods or materials into their vehicles after purchase,

or both, but does not include a building or place used for the retail sale of food for human consumption or clothing.

bushfire hazard reduction means the reduction or modification (by burning, mechanical or manual means) of material that constitutes a bushfire hazard.

bushland vegetation mean vegetation that is either a remnant of the natural vegetation of land, or if altered, is still representative of the structure and floristics of the natural vegetation.

clearing, in relation to land, means the destruction or removal in any manner of native plants growing on the land, but does not include:

- (a) the destruction or removal of plants declared noxious by proclamation pursuant to section 467 of the [Local Government Act 1919](#), by means not likely to be significantly detrimental to the native ecosystem, or
- (b) the incidental destruction or removal of native plants adjacent to any such noxious plants that is not avoidable during the process of destroying or removing those noxious plants.

community advertising means:

- (a) advertising of community events or community uses, or charity events, or
- (b) display of health or safety notices, or like notices, or
- (c) advertising which is ancillary to the primary legal use of community or recreational land, but is not for the purpose of advertising the sale of a product, or
- (d) display of a notice by a public authority.

complying development has the same meaning as in the Act.

Council means the Council of the Shire of Sutherland.

demolish a heritage item means wholly or partly destroy, dismantle or move the heritage item.

demolition means the partial or total destruction, dismantling or moving of a building. It includes decontamination, rehabilitation or remediation of land on which a building has been partially or totally destroyed or dismantled, or from which a building has been removed.

development control codes or design and management guidelines means those codes or guidelines prepared pursuant to clause 29 and adopted by the Council from time to time for the purpose of this plan.

dwelling house means one dwelling on one allotment.

exempt development has the same meaning as in the Act.

existing ground level, in relation to land, means the level of the land:

- (a) in the case of land where no previous development has taken place, in its undisturbed state, or
- (b) in the case of land on which development has previously taken place, the level of the land before any demolition, construction or excavation work connected with the development occurred.

ground level is the ground surface of a site as it was prior to any cutting, filling or grading of the site.

hazardous industry or storage establishment means a building or place which, by reason of the nature of materials produced or used or the handling, processing, manufacture or related requirements for storage of the establishment:

- (a) requires specific safety precautions resulting in isolation from other buildings or storage establishments, or
- (b) represents a significant hazard to human health or life or property or the biophysical environment.

heritage item means a building, work, tree or place described in Schedule 3.

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

home activity means a business that is ancillary to a residential use and is carried out, or partially carried out, in a dwelling or within an allotment which contains a dwelling house or dwellings, but only if:

- (a) that use is undertaken by the permanent residents, and
- (b) not more than two non-residents are employed in it at any one time, and
- (c) the use does not interfere with the amenity of adjoining properties or the locality, whether or not by the generation of vehicular traffic or parking or the emission of noise, vibration, smell or creation of some other nuisance,

but does not include a bed and breakfast establishment.

Kurnell village means the land identified as Kurnell village on the map marked “State Environmental Planning Policy—Development on Kurnell Peninsula” and deposited in the head office of the Department.

light industry means an industry, not being an offensive industry or a hazardous industry or storage establishment, in which the processes carried on, the transportation involved or the machinery or materials used do or does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise.

maintenance dredging means the removal and disposal of material from the bed of an access channel to enable the access channel:

- (a) to continue to function as an access channel, or
- (b) to resume its function as an access channel,

but does not include increasing the depth, extent or area of an access channel beyond that to which the access channel has been previously formed.

map means the map marked “*Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989)*” deposited in the office of the Department, as amended by the maps (or if any sheets of maps are specified, by the specified sheets of the maps) deposited in the office of the Department and marked as follows:

Editorial note—

The amending maps are not necessarily listed in the order of gazettal. Information about the order of gazettal can be determined by referring to the Historical notes at the end of the plan.

*Sydney Regional Environmental Plan No 17—Kurnell Peninsula
(1989)—(Amendment No 3)*

native plant means a plant indigenous to the Kurnell Peninsula, including trees, shrubs, ferns, vines, herbs and grasses including seagrasses indigenous to the Kurnell Peninsula.

offensive industry means an industry which, when in operation and when all proposed measures to reduce or minimise its impact have been employed, is required

to be isolated from other buildings, including industrial buildings.

potential archaeological site means a site known to the Council to have archaeological potential.

recreation area means:

- (a) a childrens playground,
- (b) an area used for sporting activities or sporting facilities,
- (c) an area used by the Council to provide recreational facilities for the physical, cultural or intellectual welfare of the community, and
- (d) 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 together for the purposes of the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or a showground.

recreation facility means a building or place used exclusively for a sporting activity, exercise, pastime or leisure activity, whether operated for the purpose of gain or not and whether used for activities, exercises or pastimes based on land or water.

relic means any deposit, object or material evidence relating to:

- (a) the use or settlement of Sutherland Shire, not being Aboriginal habitation, which is more than 50 years old, or
- (b) Aboriginal habitation of Sutherland Shire commencing before and continuing after its occupation by persons of European extraction, including human remains.

single mooring means an apparatus located on or in a waterway to which one vessel is attached.

storey means:

- (a) the space between two floors, or
- (b) the space between any floor and its ceiling or roof above, or
- (c) foundation areas, garages, workshops, storerooms and the like, where the height between ground level and the top of the floor above is 1.5 metres or more.

A storey which exceeds 4.5 metres is considered as two storeys.

subdivision has the same meaning as in the Act.

the Act means the *Environmental Planning and Assessment Act 1979*.

the Regulation means the *Environmental Planning and Assessment Regulation 2000*.

tourist facility means a building or place used or intended to be used by tourists or holidaymakers for the purposes of holiday accommodation, sport or recreation, and may include:

- (a) hotels, motels and other types of accommodation,
- (b) shops attached to or incorporated within the building or located at the place, or
- (c) facilities servicing the needs of tourists and holidaymakers using the building or place,

but does not include a caravan park.

toxic industry means an industry which manufactures, utilises or produces as a by-product any substance (other than in a minor or insignificant amount) which, when introduced into or absorbed by a living organism, including by low-level chronic exposure, destroys life or injures health or which may interact with other substances to cause such an effect.

utility undertaking means an undertaking by a public utility for the purposes of the supply of water, electricity or gas, or the provision of sewerage or drainage services or communications installations.

waste disposal means:

- (a) the use of a building or place for the purpose of treating, storing or disposing of any waste, as defined by the *Waste Disposal Act 1970*, other than a building or place used for the treatment, storage or disposal of waste resulting from any other activity carried out on the same land, or for the purposes of a depot registered with the Environment Protection Authority for the receipt of natural excavated material and demolition materials as approved by that Authority, and
- (b) the use of any bore or excavation that is connected with the underlying shallow groundwater system for disposal of wastes.

waterbody means:

- (a) a natural waterbody, including:
 - (i) a lake or lagoon either naturally formed or artificially modified, or
 - (ii) a river or stream, whether perennial or intermittent, flowing in a natural channel with an established bed or in a natural channel artificially modifying

the course of the stream, or

- (iii) tidal waters including any bay, estuary or inlet, or
- (b) an artificial waterbody, including any constructed waterway, canal, inlet, bay, channel, dam, pond or lake, but does not include a dry detention basin or other construction that is only intended to hold water intermittently.

wetland areas means the land as shown by black hatching and heavy black edging on sheet 3 of the map.

works associated with or ancillary to oyster farming means any structure that is used in the oyster farming industry which relates to the purification, processing or packaging of oysters for wholesale distribution, but which is not used in the direct sale of oysters to the public.

zone means land shown on the map in some distinctive manner for the purpose of indicating the restrictions imposed by this plan on the development of the land.

(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.

(3) The matter “WS & D”, where appearing on the map, means Water Board purposes.

6 Adoption of model provisions

- (1) This plan adopts clauses 4 (1) (except for the definitions of **light industry, map, offensive or hazardous industry, recreation facility** and **tourist facilities**), 7, 13, 14, 25, 29, 30, 31, 33, 34 and 35 and Schedule 1 of the [Environmental Planning and Assessment Model Provisions 1980](#).
- (2) In their application to this plan, the [Environmental Planning and Assessment Model Provisions 1980](#) shall be construed as if a reference in those provisions to a local environmental plan were a reference to this plan.

7 Consent authority

For the purposes of this plan the consent authority is the Council.

Part 2 General restrictions on development

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)—coloured light scarlet, edged black and lettered “2 (a)”.

Zone No 3 (d) (Neighbourhood Business Zone)—coloured medium blue, edged black and lettered “3 (d)”.

Zone No 4 (a) (General Industrial Zone)—coloured purple, edged black and lettered “4 (a)”.

Zone No 4 (b) (Light Industrial Zone)—coloured purple, edged black and lettered “4 (b)”.

Zone No 4 (c1) (Special Industrial (Oil Refining) Zone)—coloured purple, edged black and lettered “4 (c1)”.

Zone No 4 (c2) (Special Industrial Zone)—coloured purple, edged black and lettered “4 (c2)”.

Zone No 5 (a) (Special Uses “A” Zone)—coloured yellow, edged black, lettered “5 (a)”, with purpose indicated by red lettering.

Zone No 6 (a) (Public Recreation (Existing) Zone)—coloured dark green, edged black and lettered “6 (a)”.

Zone No 6 (b) (Public Recreation (Proposed) Zone)—coloured light green, edged black and lettered “6 (b)”.

Zone No 6 (c) (Private Recreation Zone)—coloured dark green, edged black and lettered “6 (c)”.

Zone No 7 (a) (Waterways Zone)—uncoloured, edged light blue and lettered “7 (a)”.

Zone No 7 (b) (Special Development Zone)—coloured orange, edged black and lettered “7 (b)”.

Zone No 8 (a) (National Parks and Nature Reserves (Existing) Zone)—uncoloured, edged dark green and lettered “8 (a)”.

Zone No 9 (a) (Regional Open Space (Reservation) Zone)—coloured light green, edged black and with red notation “R”.

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” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which:
 - (a) development may be carried out without development consent,
 - (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.
- (2A) Exempt development may also be carried out without development consent on the land on which it is allowed.
- (3) Except as otherwise provided by this plan, the consent authority shall not grant consent to the carrying out of development on land to which this plan applies unless it is of the opinion that the carrying out of the development is consistent with the aims and objectives of the plan and 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 of this zone are:

- (a) to maintain and enhance the existing village character of the residential areas of Kurnell,
- (b) to ensure that development does not place demands on services beyond the level reasonably required for low density residential use,
- (c) to control the subdivision and use of land and limit population growth within the Kurnell village, and
- (d) to ensure that development is compatible with the unique ecological and landscape attributes of the Kurnell Peninsula, especially the wetland areas and their environs.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in Items 2 or 4.

4 Prohibited

Advertising structures; boarding-houses; bulky goods sales rooms or showrooms; car parks; car repair stations; caravan parks; clubs; commercial premises; dual occupancy buildings; extractive industries; gas holders; generating works; helipads; hotels; industries (other than home industries); institutions; junk yards; liquid fuel depots; mines; motels; places of assembly (other than public halls); recreation facilities; refreshment rooms; residential flat buildings; road transport terminals; roadside stalls; sawmills; service stations; shops; tourist facilities; warehouses; waste disposal.

Zone No 3 (d) (Neighbourhood Business Zone)

1 Objectives of zone

The objective of this zone is to provide retail, commercial and professional services that serve the local residents of the Kurnell village and visitors to the Kurnell Peninsula.

2 Without development consent

Nil.

3 Only with development consent

Advertisements; advertising structures; child care centres; commercial premises; drainage; dwellings used in conjunction with shops or commercial premises; home industries; open space; refreshment rooms; roads; shops; utility installations (other than gas holders or generating works).

4 Prohibited

Any purpose other than a purpose included in Item 3.

Zone No 4 (a) (General Industrial Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to accommodate industrial development, having regard to environmental safety planning principles,
- (b) to ensure that development is compatible with the unique ecological and landscape attributes of the Kurnell Peninsula, especially the wetland areas and their environs,
- (c) to promote industrial park estate type development and to mitigate land use conflicts within and adjacent to the zone, and
- (d) to promote the orderly and economic development of land within the zone and to ensure that adequate provision is made for the supply of water and the disposal in an environmentally sensitive manner of all wastes and stormwater from the land.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in Item 4.

4 Prohibited

Boarding houses; bulky goods sales rooms or showrooms; car repair stations; caravan parks; clubs; commercial premises; dwelling-houses or residential flat buildings (other than those essential to the operation of an industry and situated on the land on which such industry is conducted); educational establishments; extractive industries (other than sand mining); hazardous industry or storage establishments (other than those for which the proposed site layout of the buildings is such as to render the establishment non-hazardous to adjoining development and for which adequate facilities are available for the treatment and disposal of all waste water and waste products); helipads; hospitals; hotels; institutions; junk yards; mines; motels; offensive industries; places of assembly; places of public worship; recreation areas; road transport terminals; roadside stalls; service stations; shops; tourist facilities; toxic industries; waste disposal.

Zone No 4 (b) (Light Industrial Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to recognise existing industry and identify land suitable for light industrial development,
- (b) to encourage and facilitate the establishment of suitable light industry so as to increase the local employment base,
- (c) to ensure that development is compatible with the unique ecological and landscape attributes of the Kurnell Peninsula, especially the wetland areas and their environs, and
- (d) to promote the orderly and economic development of land within the zone and to ensure that adequate provision is made for the supply of water and the disposal in an environmentally sensitive manner of all wastes and stormwater from the land.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in Item 4.

4 Prohibited

Boarding houses; bulky goods sales rooms or showrooms; caravan parks; clubs; commercial premises; dwelling-houses or residential flat buildings (other than those essential to the operation of an industry and situated on the land on which such industry is conducted); educational establishments; extractive industries (other than sand mining); hazardous industry or storage establishments; helipads; hospitals; hotels; industries (other than light industries); institutions; junk yards; liquid fuel depots; mines; motels; motor showrooms; offensive industries; places of assembly; places of public worship; public buildings; road transport terminals; roadside stalls; service stations; shops; toxic industries; warehouses; waste disposal.

Zone No 4 (c1) (Special Industrial (Oil Refining) Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to recognise land used for oil refinery, liquid fuel depot and liquified petroleum gas extraction purposes,
- (b) to ensure that development has regard to environmental safety planning principles, and
- (c) to mitigate land use conflicts within and adjacent to the zone and to ensure that adequate provision is made for the supply of water and the disposal in any environmentally sensitive manner of all wastes and stormwater from the land.

2 Without development consent

Nil.

3 Only with development consent

Drainage; liquid fuel depots; liquified petroleum gas extraction plants; oil refining; roads; sand mining; utility installations (other than gas holders or generating works).

4 Prohibited

Any purpose other than a purpose included in Item 3.

Zone No 4 (c2) (Special Industrial Zones)

1 Objectives of zone

The objectives of this zone are:

- (a) to accommodate industrial development, including activities related to the oil refinery, having regard to environmental safety planning principles, and
- (b) to promote the orderly and economic development of land within the zone and to ensure that adequate provision is made for the supply of water and disposal, in an environmentally sensitive manner, of all wastes and stormwater from the land.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in Item 4.

4 Prohibited

Boarding-houses; bulky goods sales rooms or showrooms; caravan parks; carbon black industries; clubs; coal gasification establishments; coal tar industries; coke production; commercial premises; dwelling-houses; dye industries; educational establishments; extractive industries (other than sand mining); hospitals; hotels; industries involving the derivatisation of benzene; industries involving the manufacture of carbon tetrachloride, trichloroethylene, ethylene dichloride or dichloromethane; industries involving the manufacture of pesticides, herbicides or weedicides; industries involving the manufacture or derivatisation of ethylene oxide, vinyl chloride, vinyl bromide, formaldehyde or propylene oxide; institutions; leather industries; metal refining; mines; motels; places of assembly; places of public worship; plastics or acrylics industries; recreation areas; residential flat buildings; road transport terminals; roadside stalls; rubber industries; service stations; shops; tourist facilities; waste disposal.

Zone No 5 (a) (Special uses “A” Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify land which is currently used by a public utility undertaking, servicing the needs of the community and industry for certain facilities and services,
- (b) to maintain and provide for the economic and efficient provision of services and appropriate infrastructure, and
- (c) to provide for the continued use of the land for the purpose indicated by red lettering on the map.

2 Without development consent

Works for the purposes of landscaping, gardening and bushfire hazard reduction.

3 Only with development consent

Development for the particular purpose indicated by red lettering on the

map and any purpose ordinarily incidental or subsidiary to that purpose; buildings for the purposes of landscaping, gardening and bushfire hazard reduction; drainage; roads; utility installations (other than gas holders or generating works); utility undertakings.

4 Prohibited

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

Zone No 6 (a) (Public Recreation (Existing) Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify land which is vested in the Council and which is set aside principally for the purposes of public recreation,
- (b) to identify land which is owned by the Crown and which is under the care, control and management of the Council as public recreation space, and
- (c) to provide a range of recreation opportunities to meet the needs of the community.

2 Without development consent

Recreation, sporting, entertainment and cultural activities not requiring the erection of any buildings; works for the purposes of landscaping, gardening and bushfire hazard reduction and sand dune stabilisation.

3 Only with development consent

Buildings for the purposes of landscaping, gardening and bushfire hazard reduction; car parking; drainage; helipads; recreation areas; recreation facilities; refreshment rooms; roads; sand extraction for beach nourishment purposes; utility installations (other than gas holders or generating works).

4 Prohibited

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

Zone No 6 (b) (Public Recreation (Proposed) Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify land, not in public ownership, which is proposed to be used for the purposes of public recreation and which will be acquired by the Council, either by dedication or purchase,
- (b) to enhance the visual and recreational amenity of the Kurnell Peninsula,
- (c) to conserve and enhance the environmental heritage of the Kurnell Peninsula and to facilitate appropriate public access to it,
- (d) to create a park system which integrates the existing public parklands and the important landscape, ecological and heritage elements of the area, and
- (e) to protect important topographical features, in particular the Bate Bay frontal dune.

2 Without development consent

Beach nourishment; recreation, sporting, entertainment and cultural activities not requiring the erection of any buildings; sand dune stabilisation; works for the purposes of landscaping, gardening and bushfire hazard reduction.

3 Only with development consent

Buildings for the purposes of landscaping, gardening and bushfire hazard reduction; car parking; drainage; helipads; kiosks; picnic areas; recreation areas; recreation facilities; refreshment rooms; roads; utility installations (other than gas holders or generating works).

4 Prohibited

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

Zone No 6 (c) (Private Recreation Zone)

1 Objectives of zone

The objective of this zone is to identify private land which is set aside for recreational purposes.

2 Without development consent

Works for the purposes of landscaping, gardening and bushfire hazard reduction.

3 Only with development consent

Buildings for the purposes of landscaping, gardening and bushfire hazard reduction; car parking; clubs; drainage; pleasure craft and recreational boat building; recreation areas; recreation facilities; refreshment rooms; roads; tourist facilities; utility installations (other than gas holders or generating works); watercraft landing facilities.

4 Prohibited

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

Zone No 7 (a) (Waterways Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to protect and enhance the aquatic environment,
- (b) to protect and conserve significant wetland areas, and
- (c) to maintain the viability of the oyster, prawn and fishing industries.

2 Without development consent

Aids to navigation; beach nourishment; oyster farming; single moorings.

3 Only with development consent

Aquaculture; commercial recreational activities associated with the waterways (other than marinas or activities involving the hiring of powered craft); environmental education facilities; maintenance dredging; mooring piles; pipelines; public boat launching ramps; public jetties; swimming enclosures; utility installations (other than gas holders or generating works); works associated with or ancillary to oyster farming.

4 Prohibited

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

Zone No 7 (b) (Special Development Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to provide flexible planning controls which permit a broad range of land uses subject to compliance with environmental performance criteria,
- (b) to ensure that development is compatible with the unique ecological and landscape attributes of the Kurnell Peninsula, especially the wetland areas and their environs,
- (c) to ensure that sand mining is controlled and to facilitate the progressive phasing out of sand mining and the rehabilitation of degraded lands,
- (d) to promote the orderly and economic development of land within the zone subject to the provision of adequate water and sewerage services and the disposal, in an environmentally sensitive manner, of all wastes and stormwater from the land,
- (e) to promote, enhance and utilise the development potential of the zone primarily for tourism, recreation or industrial parks, where this is consistent with the conservation of the unique, ecological and landscape attributes of the Kurnell Peninsula, and
- (f) to promote the sharing of the responsibility for environmental planning by creating a broad framework of controls and requiring the Council to adopt development control codes or design and management guidelines applying to development in the zone.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in Item 4.

4 Prohibited

Dwelling-houses; extractive industries (other than sand mining); hazardous industry or storage establishments; junk yards; mines; offensive industries; places of public worship; residential flat buildings (other than those used only for holiday or other non-permanent residential accommodation); stock and sale yards; toxic industries; transport terminals; units for aged persons;

waste disposal.

Zone No 8 (a) (National Parks and Nature Reserves (Existing) Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify lands presently under the control of the National Parks and Wildlife Service,
- (b) to conserve areas of natural, ecological, scenic, educational, scientific, cultural or historic importance, and
- (c) to permit development of the land as considered appropriate by the Director of the National Parks and Wildlife Service.

2 Without development consent

Any purpose authorised by or under the [National Parks and Wildlife Act 1974](#) or any purpose ancillary or incidental to such a purpose.

3 Only with development consent

Drainage; roads; utility installations (other than gas holders or generating works).

4 Prohibited

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

Zone No 9 (a) (Regional Open Space (Reservation) Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify land to be acquired for the provision of regional open space and to protect environmentally sensitive lands,
- (b) to identify and bring into public ownership those lands of strategic importance to the management of the Towra Point Nature Reserve or the Towra Point Aquatic Reserve, and
- (c) to provide opportunities to enhance the total environmental quality of the Kurnell Peninsula.

2 Without development consent

Beach nourishment works for the purposes of landscaping, gardening and bushfire hazard reduction.

3 Only with development consent

Buildings for the purposes of landscaping, gardening and bushfire hazard reduction; drainage; environmental educational facilities; environmental protection works; recreation areas (other than those involving the erection of permanent structures or buildings); roads; sand dune stabilisation; utility installations (other than gas holders or generating works).

4 Prohibited

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

Part 3 Special provisions

Division 1 Development control

10 Subdivision of land generally

A person shall not subdivide land to which this plan applies except with the consent of the Council.

11 Erection of dwelling-houses within Zone No 2 (a)

- (1) Except as provided by subclause (2), a dwelling-house shall not be erected on an allotment of land within Zone No 2 (a) which has a width of less than 18 metres at the front alignment of the dwelling-house, a depth of less than 30 metres or an area:
 - (a) in the case of a hatchet-shaped allotment or an allotment not having a frontage to a public road—of less than 1,000 square metres, or
 - (b) in the case of any other allotment—of less than 900 square metres.
- (2) Nothing in subclause (1) shall operate to prohibit the erection of a dwelling-house:
 - (a) on an allotment of land if that allotment was in existence as a separate allotment before the commencement of this plan, or
 - (b) on an allotment of land on which a dwelling-house is already erected if the dwelling house to be erected is intended to entirely replace the dwelling-house already erected, or
 - (c) on an allotment of land created after the commencement of this plan if the allotment was created as a consequence of:

- (i) consolidating two or more allotments described in paragraph (a), or
- (ii) subdividing an allotment described in paragraph (a) so as to provide land for a public purpose.

12 Development in industrial zones

- (1) The Council shall not consent to the carrying out of development on an allotment of land within Zone No 4 (a) or 4 (c2) unless the allotment:
 - (a) has an area of not less than 2,500 square metres, and
 - (b) at least 50 per cent of the allotment is not, or will not, be built upon.
- (2) Where any proposed allotment relies on Captain Cook Drive for its sole means of access, the Council shall not consent to an application to subdivide land within Zone No 4 (a) unless the area of each allotment to be created will not be less than 4 hectares.
- (3) The Council shall not consent to the carrying out of development on an allotment of land within Zone No 4 (b) unless the allotment:
 - (a) has an area of not less than 1,000 square metres,
 - (b) had a width of not less than 21 metres at the front alignment of the building, and
 - (c) has a depth of not less than 37 metres.
- (4) Nothing in subclause (1), (2) or (3) prevents the Council from granting consent to the erection or use of a building on an allotment of land, where that allotment was in existence as a separate allotment before the commencement of this plan.
- (5) The Council shall not consent to the carrying out of development on land within Zone No 4 (c1) or 4 (c2) unless it has considered:
 - (a) the level of any risk to life, and
 - (b) the pollution effects, including low level long-term effects, upon the health of people,created by, or arising out of, the carrying out of the development on that land.
- (6) Development for the purposes of a hazardous industry or storage establishment, an offensive industry or a toxic industry shall only be carried out on land within Zone No 4 (c2) where not less than 50 per cent of the feedstock for the product being manufactured originates from a refinery on the Kurnell Peninsula.

13 Captain Cook Drive

- (1) The Council shall not consent to the carrying out of development (other than

development for the purposes of landscaping, access, bicycle paths, drainage or utility installations) on any land within Zone No 4 (a), 4 (b), 4 (c1), 4 (c2), 6 (c) or 7 (b) which is within 20 metres from the boundary of the Captain Cook Drive road reserve.

- (2) The Council shall not consent to the carrying out of development within Zone No 4 (a), 4 (b), 4 (c1), 4 (c2) or 7 (b) if the development, in the opinion of the Council, is likely to have a significant adverse impact on the safety and efficiency of Captain Cook Drive.
- (3) The Council may as a condition of granting development consent or subdivision approval in respect of any land referred to in subclause (2) require a contribution towards the upgrading of Captain Cook Drive.
- (4) In considering whether to impose a condition referred to in subclause (3) the Council shall take into consideration:
 - (a) the amount of traffic likely to be generated by the development in relation to Captain Cook Drive,
 - (b) the nature of the goods or materials transported or likely to be transported along Captain Cook Drive as a result of the development, and
 - (c) any means that are, in the opinion of the Council, required to be employed to protect the environment or to mitigate harm to the environment as a result of the development because of the amount of traffic generated or the nature of the goods or materials transported.
- (5) The Council may consent to the relocation of Captain Cook Drive between the points marked "X" and "Y" on the map.
- (6) Where Captain Cook Drive is relocated, the Council may consent to the carrying out of development on land formerly occupied by that road and on land south of the relocated road within Zone No 6 (c) for any purpose for which development may be carried out in Zone No 7 (b).

14 Protection of certain land within Zone No 5 (a) or 7 (b)

The Council shall not consent to the carrying out of development on land within Zone No 5 (a) or 7 (b) that is shown hatched black on the map if, in its opinion, that development would significantly affect or alter the topographical or ecological features of the land.

15 Development within Zone No 6 (a)

The Council shall not consent to the carrying out of development on land within Zone No 6 (a) unless the Council has considered:

- (a) the need for the proposed development to be carried out on that land,

- (b) the impact of the carrying out of the proposed development on the existing or likely future use of the land, and
- (c) the need to retain the land for its existing or likely future use.

16 Consideration of use of certain land by tourists

In considering any development application relating to land within Zone No 6 (b) adjacent to Bate Bay or Zone No 9 (a) and adjoining Boat Harbour (where that land has been dedicated or transferred free of cost to the Council or the corporation, as the case may be), the Council shall take into consideration the use for tourist or other similar purposes of any adjoining land within Zone No 7 (b) and the use of the land within Zone Nos. 6 (b) and 9 (a) by people accommodated on land within Zone No 7 (b).

17 Development of certain land in Zone No 6 (b) or 9 (a)

The Council may consent to the carrying out of development on land:

- (a) within Zone No 6 (b) adjacent to Bate Bay and which is within 10 metres of the boundary of that zone and Zone No 7 (b), and
- (b) within Zone No 9 (a) adjacent to Boat Harbour and which is within 5 metres of the boundary of that zone and Zone No 7 (b),

and not being land on the seaward side of the crest of the frontal dune, for any of the purposes for which development may be carried out on land within Zone No 7 (b) where the balance of the land within Zone No 6 (b) and 9 (a) adjoining the particular land in Zone No 7 (b) and an equal amount of land within Zone No 7 (b) adjacent to the boundary of the two zones is dedicated or transferred free of charge to the Council or the corporation, as the case may be.

18 Development adjacent to or adjoining Zone No 7 (a)

The Council shall not consent to the carrying out of development on land adjacent to or adjoining land within Zone No 7 (a) where that development:

- (a) is located or sited less than 10 metres from the boundary of Zone No 7 (a), or
- (b) would require the clearing, construction of a levee on, draining or filling of land within 10 metres from the boundary of Zone No 7 (a).

19 Development within Zone No 7 (b)

- (1) Except as provided by subclause (2), the Council shall not consent to the subdivision of land within Zone No 7 (b) unless:
 - (a) the area of each allotment to be created by the subdivision is not less than 2,500 square metres, and

(b) the average area of all allotments to be created by the subdivision is not less than 5,000 square metres.

- (2) Where an allotment of land within Zone No 7 (b) relies on Captain Cook Drive for its sole means of access, the Council shall not consent to the carrying out of development on that land unless the allotment has an area of not less than 4 hectares.
- (3) The Council shall not consent to the carrying out of development on land within Zone No 7 (b) adjacent to land within Zone No 9 (a) adjacent to Boat Harbour unless reasonable provision is made for public access to Boat Harbour and between land within Zone No 6 (b) adjoining Bate Bay and land within Zone No 9 (a) adjoining Boat Harbour.

20 Development of certain land within Zone No 7 (b)

- (1) Except as provided by subclause (2), land within Zone No 7 (b) which is within 300 metres of the Mean High Water Mark of Bate Bay or Boat Harbour may be developed, with the consent of the Council, only for the purpose of kiosks, picnic areas, sand mining and extraction, and sand stabilisation and conservation.
- (2) Land referred to in subclause (1) may be developed with the consent of Council for purposes permissible in Zone No 7 (b) (other than those referred to in subclause (1)), only where reasonable measures to ensure the stability of the frontal sand dune and to protect the environmentally sensitive features of the land have been taken or will be taken within 3 months of the date of commencement of any construction on the land referred to in subclause (1).
- (3) Measures which may be required under subclause (2) include the dedication or transfer free of cost of the land within Zone No 6 (b) adjoining Bate Bay or the land within Zone No 9 (a) adjoining Bate Harbour.

21 Consideration of environmental effect—protection of wetlands

- (1) The Council shall not consent to the carrying out of development on any land to which this plan applies if the development, in the opinion of the Council, is likely to have a significant adverse impact on the long term viability of the wetland areas or any ecosystem or species within the wetland areas.
- (2) Without limiting any other matters which the Council may consider, in considering whether the carrying out of any development on land is likely to have a significant adverse impact on the long term viability of the wetland areas or any ecosystem or species within the wetland areas, the Council shall take into consideration:
 - (a) the accumulation in the surrounding ecosystems, by any biological, chemical or physical processes, of toxic or other chemicals to be used or produced by the development,

- (b) the likelihood of increased mortality or morbidity in natural populations of plants or animals and any effect of that on:
 - (i) the diversity of species,
 - (ii) the integrity of life cycles of species including, but not limited to, species of economic and cultural value, and
 - (iii) the maintenance of ecological processes, including nutrient cycles, hydrologic cycles, microclimate and biological productivity,
- (c) the persistence of the chemicals to be used or produced in carrying out the development, their existing concentrations in the ecosystems, and whether those chemicals are likely to be released into the ecosystems from other existing or approved development, and
- (d) the frequency of emissions which may result from the carrying out of the development in normal and atypical operating conditions and in different weather conditions.

22 Restriction on development of wetland areas

- (1) In respect of land within the wetland areas, a person shall not:
 - (a) clear that land,
 - (b) construct a levee on that land,
 - (c) drain that land,
 - (d) fill that land, or
 - (e) landscape that land,except with the consent of the Council and the concurrence of the Director.
- (2) In considering whether to grant concurrence required by subclause (1), the Director shall take into consideration:
 - (a) the environmental effects of the proposed development, including the effect of the proposed development on:
 - (i) the growth of native plant communities,
 - (ii) the survival of native and migratory wildlife populations,
 - (iii) the provision of quality habitats for both indigenous and migratory species,
 - (iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding area,

including salinity and water quality, and

- (v) the condition of the wetland area, in particular the presence of weeds or rubbish, and the prospects for its viability in the long term,
 - (b) whether adequate safeguards and rehabilitation have been, or will be, made to protect the environment, including the preparation of a plan of management,
 - (c) whether carrying out the development would be consistent with the aims of this plan,
 - (d) the objectives and major goals of the “National Conservation Strategy for Australia”, as contained in the second edition of a paper by the Commonwealth Department of Home Affairs and Environment and published in 1984 by the Australian Government Publishing Service, a copy of which is deposited in the office of the Department, as they relate to wetlands and the conservation of living resources,
 - (e) the public interest in carrying out the proposed development compared to the public interest in the preservation of the wetland area in its present state and whether consideration has been given to any feasible alternatives to the carrying out of the proposed development (either on other land or by other methods) and if so, the reasons given for choosing the proposed development,
 - (f) any representations made by the Director-General of Agriculture, the Director of National Parks and Wildlife or the Council in relation to the development application, and
 - (g) any wetland areas surrounding the land to which the development application relates and the appropriateness of imposing conditions requiring the carrying out of works to preserve or enhance the value of those surrounding wetland areas.
- (3) Pursuant to section 29 of the Act, development for which consent is required by subclause (1) is declared to be designated development for the purposes of the Act.

23 Aircraft noise—restriction on development

- (1) The Council shall not consent to the carrying out of development:
- (a) for residential purposes, where the noise level exceeds 25 ANEF, or
 - (b) for schools, universities, hospitals or nursing homes, where the noise level exceeds 25 ANEF, or
 - (c) for hotels, motels, hostels, other tourist accommodations or public buildings, where the noise level exceeds 30 ANEF, or
 - (d) for commercial purpose, where the noise level exceeds 35 ANEF, or

(e) for light industry, where the noise level exceeds 40 ANEF.

(2) The Council shall not consent to the carrying out of development:

(a) for residential purposes, where the ANEF is between 20 and 25, or

(b) for schools, universities, hospitals or nursing homes, where the ANEF is between 20 and 25, or

(c) for hotels, motels, hostels or other tourist accommodation, where the ANEF is between 25 and 30, or

(d) for public buildings, where the ANEF is between 20 and 30, or

(e) for commercial purposes where the ANEF is between 25 and 35, or

(f) for light industry where the ANEF is between 30 and 40,

unless it is satisfied that the development meets Australian Standard 2021 regarding interior noise levels.

(3) Nothing in this clause prevents the granting of consent for the reasonable repair, renovation, alteration, extension of or addition to an existing building, if there will be no resulting reduction in the degree of insulation of the building interior from noise.

(4) This clause does not apply to the carrying out of development for residential purposes, or for the purpose of schools, on land within Kurnell village.

23AA Aircraft noise—restriction on certain development on land in Kurnell village

(1) This clause applies to the carrying out of development for residential purposes, or for the purpose of schools, on land within Kurnell village.

(2) The Council must not consent to the carrying out of development:

(a) for residential purposes, where the ANEF exceeds 20, or

(b) for schools, where the ANEF exceeds 20,

unless it is satisfied that the development meets Australian Standard 2021 regarding interior noise levels.

(3) Nothing in this clause prevents the granting of consent for the reasonable repair, renovation, alteration, extension of or addition to an existing building, if there will be no resulting reduction in the degree of insulation of the building interior from noise.

23A Protection of heritage items and relics

(1) The following development may be carried out only with development consent:

- (a) demolishing or damaging a heritage item,
 - (b) altering a heritage item by making structural changes to its exterior,
 - (c) altering a heritage item by making non-structural changes to the detail, fabric, finish or appearance of its exterior,
 - (d) moving a relic, or excavating land for the purpose of discovering, exposing or moving a relic,
 - (e) erecting a building on, or subdividing, land on which a heritage item is located.
- (2) Development consent is not required by this clause for development specified in Schedule 4 or for any other development if Council considers the proposed development would not adversely affect the heritage significance of a heritage item.
- (3) When determining a development application required by this clause, the Council:
- (a) must consider the effect of the development on the heritage significance of the heritage item and its setting, and
 - (b) may consider any conservation plan that assesses the impact of the proposal on the heritage significance of the heritage item and its setting, and
 - (c) must, in the case of a heritage item that is of State or regional significance (as indicated in Schedule 3), notify the Heritage Council of its intention to consent to the demolition of the item, and consider any comments received within 28 days after the notice is sent.

23B Development of known or potential archaeological sites

- (1) The Council may consent to the carrying out of development on an archaeological site or potential archaeological site that has Aboriginal heritage significance only if:
- (a) it has considered a conservation assessment of the impact of the proposed development on the site, and
 - (b) it has notified the Director-General of National Parks and Wildlife of its intention to do so and taken into consideration any comments received from the Director General within 28 days after the notice was sent, and
 - (c) it is satisfied that any necessary consent or permission required under the [National Parks and Wildlife Act 1974](#) has been granted.
- (2) The Council may consent to the carrying out of development on an archaeological site or potential archaeological site that has non-Aboriginal heritage significance only if:
- (a) it has considered a conservation assessment of the impact of the proposed development on the site, and

- (b) it has notified the Heritage Council of its intention to do so and taken into consideration any comments received from the Heritage Council within 28 days after the notice was sent, and
- (c) it is satisfied that any necessary excavation permit required by the *Heritage Act 1977* has been granted.

23C Conservation incentives

The Council may grant consent to the development of a site of a heritage item which is a building, except a boatshed or other structure ancillary to a dwelling, regardless of clause 9 provided it is satisfied that:

- (a) the proposed development would not adversely affect the heritage significance of the heritage item, and
- (b) the proposed development would have little or no adverse effect on the amenity of the area, and
- (c) conservation of the item will be carried out to the Council's satisfaction.

23D Advertisement of heritage development applications

The Council must advertise any development application involving the demolition of a heritage item or the use of heritage items as allowed under clause 23C on at least 2 occasions in a local newspaper.

Division 2 Concurrence, consultation etc

24 Water Board requirements

- (1) The Council shall not consent to the carrying out of development on land to which this plan applies unless arrangements satisfactory to the Water Board have been made for the provision of water and sewerage services to the land.
- (2) The Council shall not consent to the carrying out of development on land within Zone No 7 (b) for the purpose of commercial premises (other than commercial premises ancillary to another purpose), retail activities or holiday accommodation where the proposed development will be situated within 400 metres:
 - (a) from the existing treatment structures of the Water Board's Cronulla Sewerage Treatment Works, or
 - (b) from the northern boundary of the site on which those structures are erected.

25 Department of Water Resources requirements

The Council shall not consent to the carrying out of development where:

- (a) groundwater is abstracted for water supply purposes, or
- (b) groundwater is recirculated for industrial purposes and returned to the aquifer, or
- (c) groundwater or surface water is discharged as waste water into bores, unlined pits, channels or excavations,

unless arrangements for the proper utilisation and protection of this natural resource have been made that are satisfactory to the Department of Water Resources.

26 Consultation with government bodies

- (1) Where the Council receives an application for consent to the carrying out of development within Zone No 7 (a), or 9 (a), or on land adjoining or adjacent to land within Zone No 8 (a) or 9 (a), the Council shall, within 7 days of receiving that application, forward a copy of it to the Director of National Parks and Wildlife.
- (2) Where the Council receives an application for consent to the carrying out of development on land within Zone No 7 (a), or on land adjoining or adjacent to land within Zone No 7 (a), the Council shall, within 7 days of receiving that application, forward a copy of it to the Director-General of Agriculture and the Managing Director, MSB Sydney Ports Authority.
- (3) Where the Council receives an application for consent to the carrying out of development for the purposes of an extractive industry the Council shall, within 7 days of receiving that application, forward a copy of it to the Secretary of the Department of Mineral Resources.
- (4) In determining the application, the Council shall take into consideration any representation made by those bodies referred to in subclauses (1), (2) or (3).

27 Development control—coastal areas

Before granting consent to development on land affected or likely to be affected by coastal processes, the Council shall:

- (a) consult with the Director of Public Works and the Commissioner of the Soil Conservation Service of New South Wales and shall take into consideration their comments on the proposed development,
- (b) require as a condition of development consent that disturbed foreshore areas be rehabilitated, and
- (c) require as a condition of development consent that access across foredune areas be confined to specified points.

28 Consideration of certain reports

The Council shall not consent to the carrying out of development on land to which this

plan applies unless it has first considered the contents of any reports prepared by the Department relating to:

- (a) risk assessment for the Kurnell Peninsula,
- (b) transportation on the Kurnell Peninsula,
- (c) dangerous goods routes, and
- (d) guidelines on risk assessment criteria and methodology.

Division 3 General

29 Development control codes and design and management guidelines

- (1) Where land is within Zone No 7 (b) or where the Council considers it necessary or desirable to make more detailed provisions than are contained in this plan in respect of any other land to which this plan applies, it may prepare or cause to be prepared a development control code or design and management guidelines.
- (2) The format, structure, subject-matter and procedures for the preparation, public exhibition, approval, amendment and repeal of a development control code or design and management guidelines shall comply with Part 3 of the *Environmental Planning and Assessment Regulation 1980* which shall be construed as if:
 - (a) a reference in that Part to a development control plan were a reference to a development control code or design and management guidelines,
 - (b) a reference in that Part to a local environmental plan were a reference to this plan, and
 - (c) a reference in that Part to the council were a reference to the consent authority.
- (3) A development control code or design and management guidelines shall not be inconsistent with the provisions of this plan applying to the land to which the development control code or design and management guidelines apply.
- (4) A development control code or design and management guidelines prepared in accordance with this clause shall be available for public inspection, without charge, at the office of the Council during ordinary office hours.
- (5) The Council shall take any code or guidelines prepared in accordance with this clause into consideration in determining any development applications relating to land to which the code or guidelines may apply.

30 Sand extraction

- (1) Pursuant to section 29 of the Act, development for the purpose of extractive industries (being sand mining) on land to which this plan applies is declared to be

designated development for the purposes of the Act.

- (2) The Council shall require as a condition of any consent given for the purpose of sand mining or extraction the restoration of the area of land subject to the consent.

31 Acquisition of reserved lands

- (1) The owner of any land within Zone No 9 (a) may, by notice in writing, require the corporation to acquire that land.
- (2) Subject to subclause (3), on receipt of a notice referred to in subclause (1), the corporation, shall acquire by purchase the land to which the notice relates.
- (3) Where a person owns a parcel of land which is partly within Zone No 9 (a) and partly within any other zone, nothing in subclause (1) requires the corporation to acquire so much of the land within Zone No 9 (a) as could be required to be dedicated or transferred to the corporation as a condition of consent to the development of that part of the land within any other zone or otherwise under this plan.
- (4) Except as provided by subclause (5), land within Zone No 9 (a) may be developed for a purpose permissible in an adjoining zone with the consent of the Council, until that land is acquired by the Corporation.
- (5) The Council shall not grant consent, as referred to in subclause (4), to the development of land to be acquired by the corporation unless it obtains the concurrence of the Director.
- (6) In considering whether to grant concurrence required by subclause (5) the Director shall take into consideration:
 - (a) the effect of the proposed development on the costs of acquisition,
 - (b) the imminence of acquisition,
 - (c) the costs associated with the reinstatement of the land for the purposes for which it is reserved, and
 - (d) the environmental consequences of the development.

32 Suspension of covenants

- (1) For the purpose of enabling development to be carried out in accordance with this plan or a consent given under the Act, any covenant, agreement or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes on land within any zone, other than Zone No 2 (a), shall not apply to the extent necessary to enable that development to proceed.
- (2) Nothing in subclause (1) affects the right or interests of the Crown or any public authority under any registered instrument.

- (3) Pursuant to section 28 of the Act, before the making of this plan the Governor approved of subclause (1).

33 Development for certain additional purposes

- (1) Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on land referred to in Schedule 1 for a purpose specified in relation to that land, subject to such conditions, if any, as are so specified.
- (2) Subclause (1) does not affect the application, to or in respect of development to which that subclause applies, of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted by the Council in respect of the development.
- (3) The Council may grant consent to a development application made by FAPACE PTY LIMITED dated March 1989 relating to Lot 4, DP 712157, Lot 2, DP 559922 and Lot 3, DP 225537 where the Council has taken into consideration the Deed dated 14 March 1989 between Besmaw Pty Limited, Fapace Pty Limited, the Minister administering the [Environmental Planning and Assessment Act 1979](#), the Director of Planning and the Council of the Shire of Sutherland relating to the land.
- (4) Notwithstanding any other provision of this plan, if the Council grants a consent in respect of the development application referred to in subclause (3), the Council may, by that consent or by any subsequent consent, grant consent to the carrying out of development for any purpose referred to in that development application.

34 How are trees and bushland vegetation preserved?

- (1) The objective of this clause is the preservation of valuable trees and bushland vegetation in the local government area of Sutherland Shire.
- (2) Where it appears to the Council that it is expedient for the purpose of preserving or securing trees and bushland vegetation in order to ensure the integrity of the natural environment for both residents of and visitors to the area of Sutherland Shire it may make a tree and bushland vegetation preservation order.
- (3) A tree and bushland vegetation preservation order may prohibit the ringbarking, cutting down, topping, lopping, pruning, removing, injuring or wilful destruction of any bushland vegetation, tree or trees specified in the order except with development consent or the permission of the Council.
- (4) A tree and bushland vegetation preservation order made in accordance with this clause may apply to any tree or trees, or to any specified class, type or description of trees or to bushland vegetation described in the order.
- (5) A tree and bushland vegetation preservation order may exempt any tree or any specified class, type or description of trees or bushland vegetation upon land

described in the order.

- (6) A tree and bushland vegetation preservation order, and an amendment or repeal of any such order, has effect only when it has been published in the Government Gazette and in a local newspaper.
- (7) A person must not contravene, or cause or permit the contravention of, a tree and bushland vegetation preservation order that is in force.
- (8) It is a sufficient defence to a prosecution for an offence under this clause if the accused establishes:
 - (a) that the tree or bushland vegetation concerned was dying or dead or had become dangerous, or
 - (b) that taking the action alleged to comprise the offence was reasonably necessary to protect human life, buildings or other property from imminent danger from a bush fire burning in the vicinity of the land on which the tree or bushland vegetation was situated, or
 - (c) that written notice about proposed action to remove trees or bushland vegetation that pose or poses a fire hazard was given to the Council, and the Council, before the action alleged to comprise the offence was taken, confirmed in writing:
 - (i) that the tree or bushland vegetation concerned was in a Inner Protection Area within the meaning of the document entitled *Planning for Bushfire Protection* published in December 2001 by the NSW Rural Fire Service in collaboration with Planning NSW, a copy of which is available for inspection at the office of the Council, or
 - (ii) that the tree or bushland vegetation concerned was of a species classified by the Council as being likely to present a significant fire hazard, or
 - (d) that written notice about the proposed action alleged to comprise the offence was given to the Council, a period of not less than 14 days occurred after the notice was given (and before the action was taken) and the Council did not advise the person during that period that it opposed the action being taken.

In this subclause, **notice** means a notice that includes the name and address of the person who gives it and that explains that a tree of a named species or bushland vegetation situated in a specified position on land described in the notice is intended to be ringbarked, cut down, topped, lopped, removed, injured or wilfully destroyed for the purpose of bush fire hazard reduction.

- (9) The provisions of a tree and bushland vegetation preservation order do not apply to activities lawfully conducted in accordance with the Act or the [Telecommunications Act 1992](#) of the Commonwealth, the [Roads Act 1993](#), the [Rural Fires Act 1997](#), the

Local Government Act 1993.

35 What is exempt development?

- (1) Development of minimal environmental impact listed in Schedule 5 is exempt development, subject to subclauses (2) and (3).
- (2) Development is exempt development only if:
 - (a) the development is in accordance with the specified predetermined development standards and other requirements identified for that development in Schedule 5, and
 - (b) the development is ancillary to an existing legal use of a property and will be contained wholly within the property, and
 - (c) the development complies with the deemed-to-satisfy provisions of the *Building Code of Australia (the BCA)* and the standards currently prescribed in the Regulation, and
 - (d) the development does not contravene any condition of a development consent applying to the land, and
 - (e) the development does not result in removal, pruning or lopping of trees or bushland vegetation which would otherwise require the consent or permission of the Council to remove, prune or lop under the Council's tree and bushland vegetation preservation order, and
 - (f) the development does not cause interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise, and
 - (g) the development is not carried out within the zone of influence of or over an existing or proposed easement or public sewer main or, if over a sewer main, the proposal complies with the **building over sewer** requirements of the Sydney Water Corporation applying to the land, and
 - (h) if appropriate, any installation involved is carried out to the manufacturer's specifications and requirements, and
 - (i) the development does not restrict any vehicular or pedestrian access to or from the site or reduce the number of car spaces on the site below the minimum required by the Council, and
 - (j) the development does not result in the redirection of surface storm water or run off onto adjoining private property, and

- (k) the development does not involve excavation beyond 600 millimetres below natural ground level, and
 - (l) it does not involve handling, storing, or using hazardous chemicals or materials otherwise than on a domestic scale (except on farms and at a distance of more than 25 metres from any habitable building), and does not release any hazardous chemicals or materials or any pollutants into the environment, and
 - (m) it is located within a bushfire interface area or bushfire prone area and complies with the Council's construction standards or relevant building standards for buildings in these areas.
- (3) Development is not exempt development if it is carried out on land that:
- (a) is listed as, or contains an item listed as, a heritage item in this plan, or
 - (b) is an Aboriginal place under the *National Parks and Wildlife Act 1974*, or
 - (c) is reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
 - (d) is a location of an endangered ecological community or critical habitat as identified in the *Threatened Species Conservation Act 1995*, or
 - (e) is within the 7 (a) (Waterways Zone), or
 - (f) is within the 7 (b) (Special Development Zone), or
 - (g) is within the 8 (a) (National Parks and Nature Reserves (Existing) Zone), or
 - (h) is within the 9 (a) (Regional Open Space (Reservation) Zone), or
 - (i) is within 40 metres of a waterbody where the development requires any excavation, or
 - (j) is within 10 metres of land which is zoned 7 (a) (Waterways Zone).

36 What is complying development?

- (1) Development listed in Schedule 6 is complying development, subject to subclauses (2) and (3).
- (2) Development is complying development only if:
 - (a) the development is in accordance with the specified predetermined development standards and other requirements identified for that development in Schedule 6, and
 - (b) the proposed development does not involve a building or a site in or on which an

- existing use, as defined in section 106 of the Act, is being carried out, and
- (c) it is consistent with any plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat Protection*, and with any recovery plan or threat abatement plan in force under the *Threatened Species Conservation Act 1995* that may apply to the land, and
 - (d) it does not contravene any condition of a development consent applying to the land, and
 - (e) the development complies with the deemed-to-satisfy provisions of the *Building Code of Australia (the BCA)* and the standards currently prescribed in the Regulation, and
 - (f) the development does not restrict any vehicular or pedestrian access to or from the site or reduce the number of car spaces on the site below the minimum required by the Council, and
 - (g) the development will not result in removal, pruning or lopping of trees or bushland vegetation which would require the consent or permission of the Council to remove, prune or lop under the Council's tree and bushland vegetation preservation order, and
 - (h) the development is not carried out within the zone of influence of over an existing or proposed easement or public sewer main or, if over a sewer main, the proposal complies with the building over sewer requirements of Sydney Water Corporation applying to the land, and
 - (i) the development will not result in the redirection of surface storm water or run off onto adjoining private property, and
 - (j) the maximum floorspace ratio is 0.4:1, and
 - (k) the minimum landscaped area is 50% of the site area.
- (3) Development is not complying development if it is carried out on land that:
- (a) is identified by the Council as being:
 - (i) within a bushfire interface area, or
 - (ii) subject to flooding, tidal inundation, subsidence or land slip, or
 - (iii) contaminated land, or
 - (b) is listed as, or contains an item listed as, a heritage item in this plan, or is on land that abuts a heritage item, or
 - (c) is an Aboriginal place under the *National Parks and Wildlife Act 1974*, or

- (d) is reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
 - (e) is a location of an endangered ecological community or critical habitat as identified in the *Threatened Species Conservation Act 1995*, or
 - (f) is within the 6 (a) (Public Recreation (Existing) Zone), or
 - (g) is within the 6 (b) (Public Recreation (Proposed) Zone), or
 - (h) is within the 7 (a) (Waterways Zone), or
 - (i) is within the 7 (b) (Special Development Zone), or
 - (j) is within the 8 (a) (National Parks and Nature Reserves (Existing) Zone), or
 - (k) is within the 9 (a) (Regional Open Space (Reservation) Zone), or
 - (l) has previously been used as a service station, for intensive agriculture, mining or extractive industry, for waste storage or waste treatment, or for the manufacture of chemicals, asbestos or asbestos products and a notice of completion of remediation work for the proposed use has not been given to the Council in accordance with *State Environmental Planning Policy No 55—Remediation of Land*, or
 - (m) is within 40 metres of a waterbody where the development requires any excavation, or
 - (n) is within 10 metres of land which is zoned 7 (a) (Waterways Zone), or
 - (o) is adjacent to an arterial road or arterial road reservation where the development proposes a new, or alters an existing, vehicular accessway to that road or reservation, or
 - (p) is subject to an interim heritage order under the *Heritage Act 1977* or that is listed on the State Heritage Register under that Act.
- (4) A complying development certificate issued for any such development is to be subject to the conditions for the development specified in any applying development control plan adopted by the Council, as in force when the certificate is issued.

Schedule 1 Development for certain additional purposes

(Clause 33)

Land forming part of Woollooware Bay in the vicinity of Mangrove Lane, Shell Point, as shown by heavy black edging on the map marked "*Sutherland Local Environmental Plan No 74*"—marine travel lift within the 12 metre protrusion and floating pontoon and jetty within the 9 metre protrusion.

Land situated south east of Polo Street, Kurnell, being Lot 1 DP 513932, as shown edged heavy black on the map marked “*Sutherland Shire Local Environmental Plan—Kurnell Peninsula (1997)—Weather Watch Tower (Amendment No 8)*”—a weather watch tower with radar.

Schedule 2 Archaeological sites

(clause 5 (1))

Note—

The number corresponding to a site indicates the number given to the site in the Council’s heritage survey

Cape Solander Drive

A081	Captain Cook’s landing place
A082	Captain Cook’s landing site
A084	Banks Memorial
A085	Solander monument
A086	Captain Cook monument
A087	Forby Sutherland monument
A088	Landing place wharf abutment
A089	Alpha Farm Site
A090	Captain Cook Watering hole
A091	Captain Cook Watering well
A092	Flagpole
A093	Yena track
A094	Muru track

Captain Cook Drive

A028	Four wheel drive track
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Sir Joseph Banks Drive

A038	Australian Oil Refinery
A097	Boat Harbour house sites group

Tabbagai Gap

A095	Tabbagai Gap cliff site
A096	Tabbagai Gap house site

Towra Point

A103	Towra Point Nature Reserve and Quibray Bay
A104	Pelican Point
A015	Site of abandoned oyster depot
A016	Site of abandoned oyster lease

Schedule 3 Heritage items

(clause 5 (1))

Note—

R = indicates item is of Regional significance

S = indicates item is of State significance

The number corresponding to an item indicates the number given to the item in the Council's heritage survey

L015—S	Botany Bay National Park (Kurnell Historic Site)
L016—S	Kurnell monuments (in National Park)

Captain Cook Drive

B115	No 121-123, former church
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Prince Charles Parade

L011	Bonna Point Reserve
L012	Silver Beach and roadway
L013	Nos. 256-262, indigenous trees
B117	No 286, "Bayview"
B341	Crown Land, boatshed

Shell Point

B312	oyster jetty (end of Atkinson Road)
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Towra Point

L010—R	Towra Point Nature Reserve and Quibray Bay
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Schedule 4

(clause 23A (2))

- 1 Maintenance necessary for ongoing protective care, including bush fire hazard reduction.

- 2 Internal alterations
- 3 Installation of skylights which would not be visible from the street or other public places.
- 4 Demolition or erection of rear or side fences.
- 5 Lopping or removal of any structures or trees for safety reasons.
- 6 Removal of dead or dying trees

Schedule 5 Exempt development

(Clause 35)

Type of activity—development consisting of erection and use or carrying out of the following:

Development standards and other requirements

Access ramps for the disabled

- (a) Maximum height 1m above ground level.
- (b) Maximum grade 1:14 and otherwise in compliance with relevant Australian Standards.
- (c) Must be located a minimum of 1.5 m from site boundaries.

General requirements

Advertising structures

- (a) The erection of the advertising structure must comply with all the requirements of the *Building Code of Australia*, including Part B1 (Structural Provisions).
- (b) Signs must not cover mechanical ventilation inlet or outlet vents.
- (c) Advertising structures within a public road reserve must be at least 0.6m from kerb/roadway edge.
- (d) Flashing signs are not exempt in any zone.
- (e) No restrictions on advertising where displayed within a building and the advertisement is not visible from a public place, although it may be visible through openings at the ground and first floor levels of business premises, shops, food shops, restaurants, industrial premises, warehouses or bulky goods outlets.

1 Street and traffic signs

(including street name plates, directional signs, advance traffic warning signs, traffic signs and traffic signal devices)

- (a) Construction must be by or on behalf of the Council or the Roads and Traffic Authority.
- (b) Must be designed, fabricated and installed in accordance with relevant Australian Standards.

2 Business advertising

- (a) Suspended under awning signs
 - (a) One per premises.
 - (b) Must not exceed 1.5m² in area and, if over a public road, must be suspended with a clearance of no less than 2.6m above ground or pavement level.
 - (c) Must relate to the use of premises.
- (b) Awning fascia signs
 - (a) Must relate to the use of the premises to which the fascia is attached.
 - (b) Where a development control plan for a business centre applies, the background colour, and all lettering colours and styles on the awning fascia must comply with the requirements of that plan.
- (c) Under awning advertising (on building facades) Must relate to the use of the building
- (d) A-frame signs and shopfront displays
 - (a) Must comply with the approved development control plan for A-frame advertising boards and shopfront display.
 - (b) A lease or licence for the structure must be obtained from the before the sign or shopfront display is erected.
 - (a) One advertising sign of a maximum of 5m² in area is permitted and it must be fixed flush to the front elevation of the industrial building or industrial unit, to a maximum height of 6m above ground level and not project above the parapet of the building or the eaves line where the building has a pitched roof.

3 Industrial advertising

- (b) Freestanding directory boards for multiple occupancy complexes are permitted within the property boundary/premises subject to the total area of the board or boards not exceeding 5m² in area and a maximum height of 4.5m above ground level.
- (c) All signage must relate to the activity on the site.

4 Temporary signs

- (a) Real estate signs
 - (a) Must only advertise premises or land for sale or lease.
 - (b) One sign per premises and located within property boundaries.
 - (c) Sign must not exceed 2.5m² in area.
 - (d) Not exempt more than 14 days after completion of the sale or granting of the lease.
- (b) Construction signs (signs advertising firms involved in construction of a building)
 - (a) Only during construction of the building.
 - (b) One composite sign per premises only and the sign must be located within the property boundaries.
 - (c) Any signage must not exceed 2.5m² in area.
- (c) Special event sign
 - (a) Must be displayed only on the property where the special event is to be held.
 - (b) Must be constructed of lightweight, banner type material.
 - (c) Not exempt for more than 14 days before the special event or more than 48 hours after the event is finalised.
- (d) Inflatable promotional signs
 - (a) Must be displayed only on the property where the promotion is to be held.
 - (b) Not exempt if displayed for more than 7 consecutive days, more than 4 times or for a total of more than 28 days in any year or later than 48 hours after the relevant promotion is finalised.
- 5 Home activity identification signs**
 - (a) One per premises.
 - (b) Signs must not exceed 0.5m² in area and be affixed to the dwelling no higher than 3m above ground or pavement level and below the eaves line of the building.
- 6 Community advertising**
 - (a) A permanent fixed sign must not exceed 1.5m² in area and must not be higher than 3m above the ground or pavement level.
 - (b) A temporary sign may not display an advertisement for more than 7 consecutive days or for a total of more than 28 days in any year.

**Aerials/Antennae/Microwave antennae/
Satellite dishes**

- (a) For receiving purposes only.
- (b) Must not have substantial adverse impact on views enjoyed by adjoining and neighbouring premises.

For Satellite dishes only:

- (a) Maximum diameter 750mm.
- (b) Maximum height must not exceed the highest point of a pitched roof, or 1m above the highest point of a flat roof, of the building it will serve.
- (c) Must not be installed forward of the building line or on roof areas visible from the road.
- (d) Must not be visible from any public place, including roads, public open space, public recreation areas and waterways.
- (e) The dish and supporting structure must be finished in a non-reflective colour, which blends in with the surrounding environment.

Air conditioning units

- (a) External units must not be attached above the second storey on residential buildings, unless located on a balcony where the air conditioning unit is not clearly visible from street level.
- (b) Roof mounted air conditioning units are permitted on industrial premises only.
- (c) Must not be located within the street facing elevation or within the front building setback if ground mounted.
- (d) Must be located a minimum of 0.5m from any side or rear boundaries.
- (e) Any air conditioning unit must not include a cooling tower as part of the system.
- (f) Any building work must not reduce the structural integrity of the building.
- (g) Any opening created must be adequately weatherproofed.
- (h) The noise level generated by the air conditioning unit must not exceed an LAeq of 5 dB(A) above background noise level when measured at the property boundary. Despite this, domestic air conditioning units must not be audible within any room of any adjoining premises, from 10pm to 7am on weekdays or 10pm to 8am on weekends or public holidays.
- (i) Any noise emitted must not include any tonal, impulsive or intermittent characteristics.
- (j) Must be maintained and installed in compliance with Australian Standards AS/NZS 1668.1:1998, AS 1668.2—2002, AS/NZS 3666.1:2002, AS/NZS 3666.2:2002 and AS/NZS 3666.3:2000.

- (a) Must be retractable.

Note—

See “Pergolas, and fixed awnings etc” for fixed attachments.

Awnings, canopies and security/storm blinds or shutters

- (b) Must not be installed above the second storey of any building.
- (c) This exemption is not applicable to security blinds or shutters on the street front elevation of business buildings or business shopfront awnings.

Barbecues (portable and fixed structures)

- (a) All barbecues are to be located so that they do not cause a nuisance while being used.
- (b) Maximum height of fixed structure 2.7m from ground level.
- (c) Fixed structures must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (d) For fixed structures, a minimum 0.5m setback from side or rear boundaries, except where a heat shield is incorporated or adjoins a non-combustible fence.
- (e) Barbeques must be located so that the risk of the spread of fire from the barbecue to any other structure is minimised.

Bird aviaries and pet animal shelters

- (a) Maximum area 10m².
- (b) Maximum height 2.7m from ground level.
- (c) Must be located in rear or side yard areas only.
- (d) Must be located away from the boundary a minimum of 0.5m.
- (e) Limit of one bird aviary per property.
- (f) An aviary for fowls (poultry, including domestic fowl, chickens or guinea fowls) and small birds must not be located within 4.5m of a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food.
- (g) An aviary for poultry (other than fowls) must not be located within 30m of any building referred to in paragraph (f).
- (h) All poultry or fowls must be kept in accordance with Part 3 of and Division 2 of Schedule 5 to the [Local Government \(Orders\) Regulation 1999](#).
- (i) Fowls are limited to a maximum of 20, and other poultry to a maximum of 5.
- (j) The floors of poultry houses within 15.2m of a dwelling, public hall or school must be paved with concrete or mineral asphalt underneath the roosts or perches, unless situated on clean sand.

General requirements

- (a) Does not apply to:
 - (i) residential flat buildings, or
 - (ii) the principal street frontage of buildings in the 3 (d) Neighbourhood Business, 4 (a) General Industrial, 4 (b) Light Industrial, 4 (c1) Special Industrial (Oil Refining) or 4 (c2) Special Industrial zones, or
 - (iii) any development in the 5 (a) Special Uses “A”, 6 (a) Public Recreation (Existing), 6 (b) Public Recreation (Proposed) and 6 (c) Private Recreation zones.

Note—

See Schedule 6 (Complying development) for external building alterations.

Building alterations (external)

- (b) Work must be non-structural.
- (c) Applies only to alterations or renovations to previously completed buildings.
- (d) Works are not to include changes to the footprint or increase floorspace of the buildings or residential use of rooms whether by removal of existing walls, partitions or by other means. This does not exclude bay windows up to 0.3m from the existing alignment of the wall.
- (e) Works are not to include repositioning or enlarging of windows above ground level.
- (f) Works are not to cause reduced window arrangements for light and ventilation needs, reduced doorways for egress purposes or involve enclosure of open areas.
- (g) Any work involving lead paint removal must not cause lead contamination of the air or ground or water.

(a) Recladding of roofs or walls

- (a) Replacement of existing materials must be with similar materials which do not increase the reflectivity.
- (b) Recladding not to involve structural alterations, change to roof shape or roof pitch, or brick veneering.

- (b) Skylight roof windows (including solartube or similar type installations and roof ventilators)
 - (a) The building work must not reduce the structural integrity of the building or involve structural alterations.
 - (b) Any opening created by the installation must be adequately weatherproofed.

- (c) Windows, glassed areas and external doors
 - (a) Replacement materials must comply with:
 - AS 1288—1994, Glass in buildings—Selection and installation* and
 - AS/NZS 2208:1996, Safety glazing materials in buildings.*
 - (b) Opaque or other obscured glazing must be replaced with similar opaque glazing so as not to impact on the privacy of neighbouring properties.

Building alterations (internal)

- (a) Business/Industrial
 - (a) Does not include alterations to premises for the preparation or storage (or both) of food for sale to the public.
 - (b) Works must be non-structural, such as shelving, displays, benches and partitions that do not provide structural support to any part of the building.
 - (c) Works must not compromise fire safety or affect accessibility to fire exits.
 - (d) Must not increase existing floor area of premises.
 - (e) Must be an alteration to an existing building.

- (b) Residential
- (a) Works must be non-structural.
 - (b) Applies only to alterations or renovations to previously completed buildings.
 - (c) Works are not to include changes to the footprint of the dwelling or residential use of rooms whether by removal of existing walls, partitions or by other means.
 - (d) Works may include replacement of internal doors, walls, windows, ceiling or floor linings or deteriorated frame members with equivalent or improved quality materials.
 - (e) Works may include renovation of bathrooms, kitchens, and inclusion of built-in fixtures such as vanities, cupboards and wardrobes.
 - (f) Works are not to cause reduced window arrangements for light and ventilation needs, reduced doorways for egress purposes or involve enclosure of open areas.
 - (g) Works must not increase external size and envelope of the existing building.
 - (h) Works are not to include installation of oil or solid fuel heating appliances.
 - (i) Does not include alterations to premises for the preparation or storage (or both) of food for sale to the public.

Bushfire hazard reduction

Work must be carried out consistent with a bush fire management plan made pursuant to section 52 of the [Rural Fires Act 1997](#).

- (a) Maximum area 10m² per structure.
- (b) The floor must be located at or near ground level.
- (c) Maximum height of 4.0m from ground level.
- (d) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (e) Structures must be sited a minimum of 1.5m from side and rear boundaries.
- (f) Maximum total floorspace of combined structures in this category is 40m².

Cabanas and gazebos

Changes of use

(Different use resulting from change of use of:

- (a) business premises, shop, restaurant, food shop or sex shop to business premises, or
- (b) business premises, shop, restaurant, food shop or sex shop to shop or different kind of shop, or
- (c) food shop to different kind of food shop, or
- (d) restaurant to a different kind of restaurant, or
- (e) bulky goods outlet to different kind of bulky goods outlet, or
- (f) industry to different kind of industry, or
- (g) warehouse to different kind of warehouse.)

(a) Does not include a change of use to a sex shop.

(b) Hours of operation are limited generally to between 6am and 9pm daily for all uses except industrial uses where the hours of operation are limited to between 6am and 7pm Monday to Saturday with no use on Sundays or public holidays.

(c) The change of use is not to include any change to existing floorspace, parking, landscaping or waste facilities approved for the development.

(a) Must be installed at ground level.

(b) Must be located behind the building or in the side or rear yard.

(c) Must not be located on balconies or elevated decks.

(a) The finished surface level must not be greater than 1m above ground level.

(b) The structure must not exceed an area of 20m².

(c) The structure must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.

(d) Sufficient step down is to be provided to prevent the entry of water into any associated dwelling.

(e) Must be located a minimum of 1.5m from side and rear boundaries.

Clothes hoists/lines

Decks and patios

Demolition of a structure

- (a) Demolition of a structure is only exempt development if erection of that structure would be exempt development, or where an order to demolish has been issued by the Council under the *Environmental Planning and Assessment Act 1979*.
- (b) Does not apply to demolition of a structural retaining wall.
- (c) Does not apply to the decontamination, rehabilitation or remediation of contaminated land.
- (d) Demolition must be carried out in accordance with Australian Standard AS 2601—2001, *Demolition of structures*.

Driveways and pathways

- (a) Does not apply to works on public land except for driveways or pathways constructed by or on behalf of the Council.
- (b) Must be structurally sound and of stable construction.
- (c) Must not be elevated or suspended above ground level or involve excavation greater than 0.6m.
- (d) Driveway or access gradients must be designed to align with footpath crossing levels issued by the Council and must comply with the access gradient requirements of Australian Standard AS 2890.1—1993, *Parking facilities, Part 1: Off-street car parking*.
- (e) Must be graded and drained so as not to cause a drainage nuisance to adjoining property or footpath area.

General requirements

(a) Does not apply to fences required by the *Swimming Pools Act 1992*.

(b) Does not apply to fencing of street frontages of land occupied by dual occupancies, townhouses or villas.

(c) Does not apply to fences or gates for residential flats.

(d) All fences are to be constructed so as not to create a drainage nuisance.

(e) Does not apply to fencing along the street boundary of land occupied by dual occupancies, townhouses or villas.

Fences and gates

(including replacement of existing fences or gates)

(a) Does not apply to front fences where covenants apply to the land that restrict erection of front fencing.

(b) Does not apply to commercial premises.

(c) A maximum height of 1m.

(d) An open form front fence, to a maximum height of 2.5m, is permitted on industrial premises but only where set behind existing landscaping carried out with consent.

(a) Front fences (including side fences between the building line and the street or any other public place)

(a) Maximum height of 1.8m if constructed of timber, metal or lightweight materials, all other materials maximum height of 1.0m.

(b) Open form fencing to a maximum height of 2.5m is permitted on industrial premises.

(b) Side fences and rear fences (fences behind the building line)

(a) Maximum height 6.0m above ground level.

(b) Must not project beyond property boundaries.

(c) Limit of one flagpole per property.

(d) Not used to display flag larger than 1m².

(e) Not used to display flags for advertising purposes.

Flagpoles

**Greenhouses, garden sheds, studios,
cubby houses and playground
equipment**

- (a) Maximum area 10m² per structure.
- (b) The floor must be located at or near ground level.
- (c) Maximum height of 4.0m from ground level.
- (d) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (e) Structures must be sited a minimum of 1.5m from side and rear boundaries.
- (f) Maximum total floorspace of combined structures in this category is 40m².
- (g) Maximum area and height requirements do not apply where the structures are located on land zoned 5 (a) Special Uses "A".

Home activities

- (a) The activity must not interfere with the amenity of the area by reason of such things as vehicular traffic, parking, noise, vibration, smell, fumes, smoke, water or other waste products.
- (b) Any sound producing plant, equipment, machinery or fittings associated with or forming part of a mechanical ventilation system or refrigeration system, which is installed as part of a home activity, must be sound insulated or isolated.
- (c) Noise emitted must not exceed an LAeq of 5 dB(A) above the background level in any octave band from 63.0 Hz centre frequencies inclusive at the boundary of the site. The method of measurement of sound must be carried out in accordance with Australian Standard AS 1055.1—1997, *Acoustics—Description and measurement of environmental noise—General procedures*.
- (d) Any noise emitted must not include any tonal, impulsive or intermittent characteristics.
- (e) Hours of operation for the activity are limited to between 8am and 6pm Monday to Saturday.

Letter box

Must not exceed a maximum height of 1.2m above ground level.

Outdoor eating areas

- (a) Must comply with the approved development control plan for Outdoor Eating Areas.
- (b) A licence for the activity must be obtained from the Council before any outdoor eating activities are undertaken.

- (a) Maximum area 20m² per structure.
- (b) Maximum height 2.7m above ground level where proposed at ground floor level.
- (c) Maximum height 2.7m above existing first floor or deck level where proposed over an existing elevated deck.

Pergolas, and fixed awnings, shade structures/sunshades at ground floor level or over an existing first floor deck

- (d) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (e) Must be located a minimum of 1.5m from side and rear boundaries.
- (f) Does not apply to business shopfront awnings.
- (g) Maximum area and height requirements do not apply where the structures are located on land zoned 5 (a) Special Uses "A".

Public facilities and amenities (new construction and use)

(includes such things as playground equipment, public toilet facilities, staircases, recreational, sporting, entertainment and cultural activities, works for the purpose of landscaping, gardening, beach and foreshore protection works, lighting and night-time activities, traffic management facilities, public transport facilities, street furniture, security equipment or devices, goal posts, sight screens and similar ancillary sporting structures)

- (a) Approved by the Council and undertaken by or on behalf of the Council, or if on Crown land where consultation with the Department of Land and Water Conservation has occurred or, in the case of traffic management facilities, must be undertaken by or on behalf of the Roads and Traffic Authority.
- (b) Works must be located on land under the control of the Council or the Roads and Traffic Authority.
- (c) Must be designed, fabricated and installed in accordance with any relevant Australian Standards and the *Building Code of Australia*.
- (d) Bus shelters and seats with ancillary advertising must comply with the requirements of the development control plan for bus shelters and seats.
- (e) Park and street furniture (for example, seats, bins, picnic tables, barbecues etc) must comply with the requirements of any applicable development control plan or adopted plan of management.
- (f) The following works or uses may only be exempt if in accordance with an adopted plan of management:
 - (i) temporary uses, such as markets, concerts, fetes etc,
 - (ii) public toilet facilities,
 - (iii) installation of lighting to enable the night use of recreational facilities.

Retaining walls

- (a) Not if any site filling or raising of site levels greater than 0.3m will occur within 1.5m of side or rear boundaries.
- (b) Maximum height 0.6m.
- (c) Masonry walls to comply with Australian Standards AS 3700—2001, *Masonry structures*, AS 3600—1994, *Concrete structures* and AS/NZS 1170.0:2002, AS/NZS 1170.1:2002, AS/NZS 1170.2:2002 and AS 1170.4—1993, *Structural design actions and Minimum design loads on structures*.
- (d) Timber walls to comply with Australian Standards AS 1720.1—1997, AS 1720.2—1990 and AS 1720.4—1990, *Timber structures* and AS/NZS 1170.0:2002, AS/NZS 1170.1:2002, AS/NZS 1170.2:2002 and AS 1170.4—1993, *Structural design actions and Minimum design loads on structures*.
- (e) All retaining walls are to be constructed so as not to cause a drainage nuisance.
- (f) Maximum length of 20 lineal metres of retaining wall per property.
- (g) Not if there are two or more wall rises or drops in succession.

Water heaters

(includes heat pump hot water heaters and solar water heaters)

- (a) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (b) The installation must not reduce the structural integrity of the building or involve structural alterations.
- (c) The development must comply with the provisions of the *Building Code of Australia* for fire separation if in multi-unit housing.
- (d) The noise level generated must not exceed an LAeq of 5 dB(A) above background noise level when measured at the property boundary. Despite this, domestic water heaters must not be audible within any room of any adjoining premises, from 8pm to 7am on weekdays and 10pm to 8am on weekends or public holidays.
- (e) Maximum height must not exceed the highest point of a pitched roof, or 1m above the highest point of a flat roof, of the building it will serve.
- (f) Trees must not be lopped in order to achieve solar access for solar water heaters.

Water tanks

- (a) Not if a below ground tank or on land that requires excavation.
- (b) Maximum height 2.7m from ground level.
- (c) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (d) Tanks must be located a minimum of 0.5m from side and rear boundaries.
- (e) Maximum capacity of 1,600 litres.
- (f) Suitable proofing for the prevention of mosquito breeding must be provided.
- (g) Rainwater tank overflows must be connected to an approved

Schedule 6 Complying development—general provisions

(Clause 36)

Part 1 Complying development in the following zone:

Zone 2 (a) Residential

Development consisting of the erection or carrying out of the following:

Development standards and other requirements

Building alterations (internal)

- (a) Work must not reduce fire safety or accessibility to a fire exit.
- (b) Applies only to alterations or renovations to previously completed buildings.
- (c) Works must not include installation of oil or solid fuel heating appliances.
- (d) Work on that part of residential premises used for the purpose of preparation or storage (or both) of food for sale to the public as part of a home activity use, must comply with the *Food Regulation 2001*, the Council's *Code for Food Premises* and *Code for Commercial Home Catering*.
Work does not include installation of any commercial mechanical exhaust ventilation system.

Cabanas and gazebos

- (a) Maximum area of 40m² per structure.
- (b) Maximum height of 4.0m from ground level for all structures.
- (c) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (d) Must be located a minimum of 1.5m off side and rear boundaries.
- (e) The finished floor level must be no more than 1.0m above ground level at any point.

Decks and Patios

- (a) The finished surface level must not be greater than 1m above ground level.
- (b) The structure must not exceed an area of 40m².
- (c) The structure must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (d) Sufficient step down is to be provided to prevent the entry of water into any associated dwelling.
- (e) Must be located a minimum of 1.5m from side and rear boundaries.

Demolition

- (a) Not including decontamination, rehabilitation or remediation of a contaminated site.
- (b) Demolition must be in accordance with any relevant Australian Standards.

Fences, Gates and Retaining Walls

- (a) Front fences within the front building line must not exceed a maximum height of 1.0m above ground level.
- (b) Side or rear fences must not exceed a maximum height of 1.8m above ground level.
- (c) Retaining walls:
 - (i) must be located a minimum of 0.5m from a boundary line, and
 - (ii) must not exceed a maximum height of 1.0m above ground level, and
 - (iii) maximum length of 20 lineal metres of retaining wall per property.
- (d) Does not apply to fencing along the street boundary of land occupied by dual occupancies, townhouses or villas.

Garages

- (a) Maximum gross floor area of 40m² per structure.
- (b) Maximum height 4.0m from ground level for all structures.
- (c) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (d) Must be located a minimum of 1.5m off side boundaries.
- (e) The finished floor level must be no more than 1.0m above ground level at any point.

Greenhouses, garden sheds, studios, cubby houses

- (a) Maximum gross floor area of 40m² per structure.
- (b) Maximum height 4.0m from ground level for all structures.
- (c) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (d) Must be located in rear or side yards.
- (e) Must be located a minimum of 1.5 off side boundaries.
- (f) The finished floor level must be no more than 1.0m above ground level at any point.

Pergolas, awnings, shade structures/ sunshades, carports

- (a) Maximum area of 40m² per structure.
- (b) Maximum height of 4.0m from ground level for all structures.
- (c) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (d) Must be located a minimum of 1.5m off side and rear boundaries.
- (e) The finished floor level must be no more than 1.0m above ground level at any point.

Single storey single dwelling houses and ground floor single storey additions or alterations to single dwelling houses

(excluding areas where the Australian Noise Exposure Forecast (ANEF) exceeds 20)

- (a) Maximum height of 5.4m from ground level to the highest point of the roof.
- (b) Must be located a minimum of 1.5m off side boundaries.
- (c) Must be located a minimum of 4.5m from rear boundaries.
- (d) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (e) The maximum amount of cut or fill is restricted to 0.6m and the cut must not extend further than 0.9m beyond the perimeter of the building.
- (f) All fill must be retained within the perimeter of the buildings.
- (g) For new dwellings, two car parking spaces must be provided behind the building line.
- (h) Any car spaces and access provided must comply with the requirements of Australian Standard AS 2890.1—1993, *Parking facilities, Part 1: Off-street car parking*.
- (i) Any driveways provided must be designed to align with footpath crossing levels issued by the Council.
- (j) New dwellings must be entitled to at least a 3.5 star rating under the *National House Energy Rating Scheme* (NatHERS).
- (k) Alterations or additions must comply with the energy efficiency standards in the applicable development control plan.
- (l) Works are not to include installation of oil or solid fuel heating appliances.
- (m) Must comply with Council's construction standards for buildings located in bushfire prone areas or relevant Council building standards.
- (n) Work on that part of residential premises used for the purpose of preparation or storage (or both) of food for sale to the public as part of a home activity use, must comply with the *Food Regulation 2001*, the Council's *Code for Food Premises* and *Code for Commercial Home Catering*.
Work does not include any commercial mechanical

exhaust ventilation system.

(o) Maximum floorspace ratio is 0.4:1.

(p) Minimum landscaped area is 50% of the site area.

Subdivision for one or more of the following purposes only:

- (a) widening of a public road by a public authority, or
- (b) adjusting a boundary between allotments, but only if the new lots comply with this plan. The subdivision must not result in an increased number of lots, the re-orientation of the existing allotments or redefinition of the Mean High Water Mark, or
- (c) correcting an encroachment on an allotment, but only if the new lots comply with this plan, or
- (d) strata subdivision of any building, except dual occupancy housing, approved and constructed after 1 July 1988, subject to the development conforming with all conditions of any applicable development consent, or
- (e) consolidation of allotments, if it is development, or
- (f) the creation of an allotment for public reserve purposes but only where the residue lot or lots comply with the minimum size standards of this plan.

Swimming pools, spas and safety fencing

- (a) Must be located in the rear or side yard.
- (b) Must be located a minimum of 1.0m from side or rear boundaries to the water.
- (c) Pools (including in-ground or above-ground) must not exceed 1.0m above ground level with no attached decking within 1.5m of side and rear boundaries (refer to Decks and Patios).
- (d) Safety fencing must comply with the *Swimming Pools Act 1992* and Australian Standard AS 1926.2—1995, *Swimming pool safety, Part 2: Location of fencing for private swimming pools*.
- (e) Swimming pool/spa pump and associated equipment must be sound insulated or isolated (or both) so that the noise emitted does not exceed an LAeq of 5 dB(A) above background noise level in any octave band from 63.0 Hz centre frequencies inclusive at the property boundary, measured in accordance with Australian Standard AS 1055.1—1997, *Acoustics—Description and measurement of environmental noise—General procedures*.

- (a) Maximum height of 6.5m from ground level to the ceiling and 8m to the highest point of the roof.
- (b) Must be located a minimum of 1.5m off side boundaries.
- (c) The two storey component of any proposed dwelling or addition must not extend beyond 50% of the depth of an allotment measured from the primary street frontage.
- (d) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.
- (e) The maximum amount of cut or fill is restricted to 0.6m and the cut must not extend further than 0.9m beyond the perimeter of the building. All fill must be retained within the perimeter of the buildings.
- (f) For new dwelling houses two carparking spaces must be provided behind the building line.
- (g) Any car spaces and access provided must comply with the requirements of Australian Standard AS 2890.1—1993 *Parking facilities, Part 1: Off-street car parking*.
- (h) Any driveways provided must be designed to align with footpath crossing levels issued by the Council.
- (i) New dwellings must be entitled to at least a 3.5 star rating under the *House Energy Rating Scheme* (NatHERS).
- (j) Additions and alterations to existing dwellings must comply with insulation (roof, wall and floor), hot water system, AAA rated fittings and clothes dryer requirements as per the existing development control plan requirements for single dwelling additions.
- (k) Works are not to include side or rear first floor balconies.
- (l) Works are not to include kitchen areas on the first floor.
- (m) Works are not to include installation of oil or solid fuel heating appliances.
- (n) Must comply with the Council's construction

Two storey single dwelling houses and two storey additions or alterations to single dwelling houses

(excluding areas where the Australian Noise Exposure Forecast (ANEF) exceeds 20)

standards for buildings located in bushfire prone areas or relevant Council building standards.

- (o) Work on that part of the residential premises used for the purpose of preparation or storage of food (or both) for sale to the public as part of a home activity use, must comply with the [Food Regulation 2001](#), the Council's *Code for Food Premises* and *Code for Commercial Home Catering*.

Work does not include any commercial mechanical exhaust ventilation system.

- (p) Maximum floorspace ratio is 0.4:1.
- (q) Minimum landscaped area is 50% of the site area.

Part 2 Complying development in the following zones:

- 3 (d) Neighbourhood Business
- 4 (a) General Industrial
- 4 (b) Light Industrial
- 4 (c1) Special Industrial (Oil Refining)
- 4 (c2) Special Industrial
- 5 (a) Special Uses "A"
- 6 (c) Private Recreation

Development consisting of the erection or carrying out of the following:

Building alterations (external)

Development standards and other requirements

- (a) Building must be an existing building authorised by a consent.
- (b) Only where there is an applicable development control plan or plan of management that specifies standards for the external treatment or appearance of the building and only where the development complies with the requirements of the applicable development control plan or plan of management.
- (c) Work must not reduce fire safety or accessibility to a fire exit.
- (d) Work must not contravene any conditions of any development consent applicable to the building or its use.

- (a) Building must be an existing building authorised by a consent.
- (b) Work must not reduce fire safety or accessibility to a fire exit.
- (c) Work must not increase the existing gross floor area of industrial premises except where it is an internal mezzanine floor, where that area may be increased by up to a maximum floor area of 50m² but only for the purpose of storage or amenities.
- (d) Work must not increase existing gross floor area of business premises, including extensions within pedestrian arcades.
- (e) Work on that part of residential premises used for the purpose of preparation or storage (or both) of food for sale to the public as part of a home activity use, must comply with the *Food Regulation 2001*, the Council's *Code for Food Premises* and *Code for Commercial Home Catering*.
Work does not include any commercial mechanical exhaust ventilation systems.

Building alterations (internal)

- (f) Work on food shops or restaurants must comply with the *Food Regulation 2001*, the Council's *Code for Food Premises*, the *Clean Air (Plant and Equipment) Regulation 1997*, the *Protection of the Environment Operations Act 1997*, AS/NZS 1668.1:1998 and AS 1668.2—2002.
Alterations to an existing food shop or restaurant do not include the construction or installation of an externally mounted or located exhaust duct, fan or refrigeration unit.
- (g) Work on hairdressers, beauty salons or skin penetration premises must comply with the *Public Health Act 1991* and Regulations under that Act, the NSW Health Department's *Skin Penetration Guidelines*, published in July 1999 (if appropriate) and the *Local Government (Orders) Regulation 1999*.
- (h) Existing sound producing machinery or fittings associated with or forming part of the existing mechanical ventilation system or refrigeration system, must be sound insulated or isolated (or both) so that the noise emitted does not exceed an LAeq of 5 dB(A) above the background level in any octave band from 63.0 Hz centre frequencies inclusive at the boundary of the site (in accordance

with any relevant Australian Standards). Any noise emitted must not include any tonal, impulsive or intermittent characteristics.

- (a) Demolition is only permitted of a building the erection of which is identified in this Schedule as complying development.
- (b) Not including decontamination, rehabilitation or remediation of a contaminated site.
- (c) Demolition must be carried out in accordance with any relevant Australian Standards.

Demolition

Subdivision for one or more of the following purposes only:

- (a) widening of a public road by a public authority,
- (b) adjusting a boundary between allotments, but only if the new lots comply with this plan. The subdivision must not result in an increased number of lots, the re-orientation of the existing allotments or redefinition of the Mean High Water Mark,
- (c) correcting an encroachment on an allotment, but only if the new lots comply with this plan,
- (d) strata subdivision of any building, except dual occupancy housing, approved and constructed after 1 July 1988 subject to the development conforming with all conditions of any applicable development consent,
- (e) consolidating allotments, if it is development,
- (f) the creation of an allotment for public reserve purposes but only where the residue lot or lots comply with the minimum size standards of this plan.