



New South Wales

## **Warringah Local Environmental Plan 2000 (as amended)**

Under the Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the

*Environmental Planning and Assessment Act 1979. (S97/00568/PC)*

ANDREW REFSHAUGE, M.P.,  
Minister for Urban Affairs and Planning

Signed, this 27th day of November 2000.

Gazetted 5 December 2000  
G.G. 158

### **Last Amended 31 July 2009**

**Attention:**

This document has been compiled by Warringah Council to reflect the Warringah Local Environmental Plan 2000 as published in the NSW Government Gazette. The Council accept no responsibility for any errors or omissions in this document. Any person who wishes to rely upon the contents of this document should rely upon the text of Warringah Local Environmental Plan 2000 (as amended) as published in the NSW Government Gazette.

**Warringah Council**

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## Warringah LEP 2000 Amendments

Amend No	Gazetted	Nature of Amendment
1	27.7.01 (GG 117)	Map amendment
3	3.8.01 (GG 120)	Hazard maps (Potential Land slip and acid sulfate soils)
2	5.10.01 (GG 150)	Various anomalies
4	21.12.01 (GG 196)	Minor miscellaneous amendments concerning subdivision, exempt development, complying development and other development controls. Map amendments to include certain land in locality F2 & anomaly correction.
5	26.04.02 (GG 78)	Map amendment
9	29.11.02 (GG 237)	Amends Clause 4, 14, and definition of Complementary and Compatible Use in the Dictionary.
6	20.12.02 (GG 256)	Map Amendment
8	31.01.03 (GG 33)	Map Amendment Amends Locality Statements A2, A4, A5, B2, B9, C8 & C10
7	24.10.03 (GG168)	Amends Clause 74 and inserts Schedule 17 (carparking provision)
12	3.12.04 (GG195)	Deletes Clause 4 and amends Clause 12 (and note to Clause 12) and Clause 18.
10	10.12.04 (GG198)	Map Amendment Amends Locality Statement D1
	27.05.05 (GG21)	SEPP (State Significant Development) 2005 Amends Clause 11 Omit Clause 24.
11	9.9.05 (GG113)	Broad review of Warringah Local Environmental Plan 2000 - multiple amendments to Part 2, Part 4, Locality Statements and maps.
		Amendment to Notes to Clauses 12, 51 and Schedule 10 (Council Resolution 6 August 2002)
14	23.9.05 (GG118)	Map amendment
15	30.12.05 (GG166)	Amends clause 68 and Schedule 12
16	30.12.05 (GG166)	Map amendment
13	24.2.06 (GG27)	Heritage provisions & heritage items including map amendments.
18	18.8.06 (GG103)	Amends Clause 5 and amends locality statements A3, B1, B3, B5, B7, B8, C1, D4, E1, E2, E15, F4, F5, G3, G7, G8 & H1.
17	15.09.06 (GG116)	Amends Locality Statements A3 and B1 to correct error within the front building setback provisions Inserts Locality Statement C11 Belrose Road Corridor

<b>Amend No</b>	<b>Gazetted</b>	<b>Nature of Amendment</b>
20	11.07.08 (GG87)	Amends Schedule 1 under water tanks and makes various rezonings of land (mapping amendments)
21	28.11.08 (GG152)	Amends Locality E5, E6 and E9 and adds a new Locality E21 to make new provisions for the Dee Why Town Centre. Includes amendments to Clause 20 and makes map amendments.
	12.12.08 (GG157)	SEPP (Repeal of concurrence and Referral Provisions) 2008 Amends Clauses 28, 30, 36, 79, note to 79, 80, 81 and 83.
	Commenced 17.07.09	Statute Law (miscellaneous Provisions) Act 2009 No 56 – amends Clause 48 and dictionary.
	31.07.2009	AND SEPP (Affordable Rental Housing) 2009 – amends Schedule 1 Exempt Development.

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## Warringah Local Environmental Plan 2000

### Part 1 Introduction

#### 1 What is the name of this plan?

The name of this plan is Warringah Local Environmental Plan 2000.

#### 2 Where does this plan apply?

- (1) This plan applies to the local government area of Warringah.
- (2) However, this plan does not apply to any land while it is shown on the map as “Deferred Matter”.

#### 3 What are the purposes of this plan?

The purposes of this plan are:

- (a) as far as possible, to integrate into one document all environmental planning instruments affecting the development of land in Warringah and ensure that this plan is the sole environmental planning instrument applying to the land to which it relates, and
- (b) to describe the desired characters of the localities that make up Warringah and relate the controls on development to the achievement of the desired characters of those places, and
- (c) to establish limits to the exercise of discretion with regard to the control of development, and
- (d) to provide decision-making processes appropriate to the nature and extent of discretion to be exercised.

**Note.** The term *development* is defined broadly by the *Environmental Planning and Assessment Act 1979* (the EP&A Act) and includes the erection of buildings, the carrying out of works, the use of land or of a building or work on that land, and the subdivision of land.

#### 4 How long will this plan have effect?

Deleted



## 5 What effect has this plan on other environmental planning instruments?

- (1) Except as provided by subclause (2), the following environmental planning instruments do not apply to the land to which this plan applies while this plan has effect:

State Environmental Planning Policies Nos 1, 4, 5, 6, 9, 11, 19, 21, 22, 33, 35, 44, 45, and 56,

Sydney Regional Environmental Plans Nos 9, 20 and 21, Warringah Local Environmental Plan 1985.

- (2) Any development applications submitted before, but not finally determined when this plan took effect for the land to which they relate, are to be determined as if those other environmental planning instruments continue to have effect and as if this plan had been exhibited but had not been made.
- (3) Any development application submitted, but not finally determined, before the commencement of a relevant amending plan is to be determined as if the relevant amending plan had been exhibited but had not been made.

- (4) In subclause (3):

***relevant amending plan*** means any of the following local environmental plans:

*Warringah Local Environmental Plan 2000 (Amendment No 18)*

*Warringah Local Environmental Plan 2000 (Amendment No 20)*

## 6 Definitions and notes

- (1) The Dictionary defines some of the words used in this plan.
- (2) Notes, copies of charts and diagrams inserted in this plan, and the list of its contents, are explanatory and do not form part of this local environmental plan. They are provided to assist understanding. However, the Dictionary and Appendices are part of this plan.
- (3) In this plan, a reference to a map or diagram is to a map or diagram deposited in the office of the Council.

**Note.** From time to time this local environmental plan (LEP) will be amended. This may happen to give effect to a change in planning policy for a locality, or for Warringah as a whole. It may also happen to improve the way this LEP operates. An LEP is usually amended by the preparation of a new LEP (an amending LEP). As with all LEPs, amending LEPs must be publicly exhibited and made by the Minister.

## **Part 2 Control of development**

### **7 What development requires consent?**

All development requires consent except:

- (a) Exempt development, being development of minimal environmental impact identified in Schedule 1 (Exempt development), when carried out in accordance with the requirements of that Schedule, and
- (b) Development identified in Schedule 2 (Other development not requiring consent), when carried out in accordance with the requirements of that Schedule.

### **8 What development is complying development?**

- (1) Individual Locality Statements may identify what development is complying development within that locality.
- (2) No matter what a Locality Statement says, however, complying development does not include development:
  - (a) within an area shown cross-hatched on the map, or
  - (b) on land that is identified as bushfire, slip or flood prone on maps deposited in the office of the Council, or
  - (c) within a zone of wave impact identified on the map, or
  - (d) on land that contains a heritage item, or
  - (e) on land identified as Class 1, 2, 3, 4 or 5 on the Acid Sulfate Soils Hazard Map, where the development involves any works specified for that land in clause 49A.
- (3) Development is complying development only if it complies with the deemed-to-satisfy provisions of the *Building Code of Australia*
- (4) Development is complying development only if it does not contravene any condition of a development consent applying to the land.
- (5) Development is complying development only if a plan showing where it will be carried out has been stamped by Sydney Water Corporation to indicate compliance with Sydney Water Corporation's building over sewer requirements. This

requirement does not apply to internal alterations and demolition.

## **9 What conditions apply to complying development?**

Complying development certificates must include the conditions set out in Schedule 3 (Conditions of complying development certificates).

**Note.** Complying development is development that can be approved by accredited certifiers, as well as the consent authority, if it meets specified predetermined development standards. In addition to the circumstances in clause 8 (2), section 76A (6) of the Act also provides additional restrictions on complying development including, among other things, that complying development cannot include development on land that comprises, or on which there is, a heritage item and development which requires the concurrence of another body, including the Director-General of National Parks and Wildlife. You should refer to the Act for more detailed information.

## **10 What development is prohibited?**

The following development is prohibited:

- (a) development identified as being prohibited within a Locality Statement, and
- (b) signs of the type listed in Schedule 4 (Prohibited signs).

## **11 Who is the consent authority?**

For the purposes of this plan and subject to the Act, the Council is the consent authority.

## **12 What matters are considered before consent is granted?**

- (1) Before granting consent for development the consent authority must be satisfied that the development is consistent with:
  - (a) any relevant general principles of development control in Part 4, and
  - (b) any relevant State environmental planning policy described in Schedule 5 (State policies).
- (2) Before granting consent for development, the consent authority must be satisfied that the development will comply with:
  - (a) the relevant requirements made by Parts 2 and 3, and

- (b) development standards for the development set out in the Locality Statement for the locality in which the development will be carried out.
- (3) In addition, before granting consent for development classified as:
  - (a) Category One, the consent authority must consider the desired future character described in the relevant Locality Statement, or
  - (b) Category Two or Three, the consent authority must be satisfied that the development is consistent with the desired future character described in the relevant Locality Statement but nothing in a description on desired future character creates a prohibition on the carrying out of development.

**Note.** Before granting consent for development the consent authority must consider the matters set out under section 79C of the Act. To assist with understanding: Category One development is development that is generally consistent with the desired future character of the locality, Category Two development is development that may be consistent with the desired future character of the locality, and Category Three development is development that is generally inconsistent with the desired future character of the locality. To assist with the development standards and controls in the LEP Council has adopted a set of Design Guidelines and also a specific set of guidelines for Dee Why Town Centre and 'The Strand'.

### **13 To what extent should neighbouring Locality Statements be considered?**

Before granting consent for development within a locality, the consent authority must consider the provisions of a Locality Statement applying to a neighbouring locality if the extent to which they should be considered is specifically described in the Locality Statement for the locality in which the development is proposed.

### **14 How will development of land be controlled?**

- (1) For the purposes of clause 12, development of land within a locality is classified by the relevant Locality Statement as being within one of three following categories:
  - (a) Category One
  - (b) Category Two
  - (c) Category Three
- (2) Notwithstanding subclause (1), subdivision, other than when exempt development, is Category Two development.

- (3) Development of Category Three proposed on the site of a heritage item is taken to be development of Category Two if the consent authority is satisfied that:
- (a) the retention of the item depends on the granting of consent to the proposed development, and
  - (b) the proposed development is in accordance with a conservation plan approved by the consent authority, and
  - (c) the granting of consent to the proposed development would ensure that all necessary work identified in the conservation plan is carried out, and
  - (d) the proposed development would not adversely affect the heritage significance of the heritage item or its setting, and
  - (e) the proposed development would not adversely affect the amenity of surrounding land.

**14A How is existing Category One or Category Two development dealt with?**

- (1) In this clause:

***existing Category One development:***

- (a) means development that:
  - (i) is classified as Category One, and
  - (ii) was being lawfully carried out when this plan came into force, and
  - (iii) has continued (without abandonment) since this plan came into force and is continuing at the time a development application is lodged, and
- (b) includes development to which paragraph (a) applies that has been changed in accordance with a development consent granted pursuant to this clause.

***existing Category Two development:***

- (a) means development that:
  - (i) is classified as Category Two, and

- (ii) was being lawfully carried out when this plan came into force, and
    - (iii) has continued (without abandonment) since this plan came into force and is continuing at the time a development application is lodged, and
  - (b) includes development to which paragraph (a) applies that has been changed in accordance with a development consent granted pursuant to this clause.
- (2) This clause applies to development that involves:
- (a) alterations or additions to a building the use of which is existing Category One development or existing Category Two development, or
  - (b) the expansion or intensification of existing Category One development or existing Category Two development, or
  - (c) the rebuilding of a building the use of which is existing Category One development or existing Category Two development, or
  - (d) any combination of paragraph (a), (b) or (c).
- (3) This clause does not apply to development that involves a change of use of a building the use of which is existing Category One development or existing Category Two development.
- (4) Despite clauses 12 (2) (b) and (3) and 20 (1) and (3), the consent authority may consent to the carrying out of development to which this clause applies, but only if the consent authority is satisfied that the development:
- (a) is of minor environmental impact, and
  - (b) does not, to any significant extent, alter the bulk, size or scale of any existing building or existing land use, and
  - (c) results in an improvement to the existing character of the locality in which it occurs, and
  - (d) is confined to the current lot (or lots) on which the existing Category One development or existing Category Two development is being carried out.

**15 Does Category Three development involve extra procedures?**

- (1) Consent may be granted to development classified as Category Three only if the consent authority has considered a statement of environmental effects that includes the items listed in Schedule 15.
- (2) The consent authority must not grant consent to an application that includes development classified as Category Three unless the consent authority has considered the findings and recommendations of an independent public hearing into the application, including reasons for its recommendations.
- (3) The independent public hearing is to be convened by the Council or its delegate. The purpose of the independent public hearing is:
  - (a) to provide a forum for allowing interested parties an opportunity to be heard openly by an independent panel, and
  - (b) to undertake an independent assessment of the proposed development classified as Category Three.
- (4) An independent public hearing is to be convened and conducted, and make findings and recommendations, in accordance with such procedures as may be determined by the Council.
- (5) Nothing in this clause affects any right of appeal conferred by section 97 of the Act.

**16 How is existing Category Three development dealt with?**

- (1) In this clause, *existing Category Three development* means development classified as Category Three that could have been lawfully carried out immediately before it became so classified, including development that could have been lawfully carried out at that time because it was an existing use, as defined in section 106 of the Act.
- (2) Development applications for existing Category Three development consisting of:
  - (a) alterations or additions to, or the rebuilding of, a building, or
  - (b) the expansion or intensification of existing Category Three development.

which, in the opinion of the consent authority, is of a minor nature and does not, to any significant extent, change the scale, size or degree of any building or land use, may be granted consent even if the development is not consistent with the desired future character of the locality.

- (3) The provisions of clauses 14 and 15 do not apply to such applications.

**Note.** In deciding whether an application for consent to additions etc is of a minor nature, the Council will have regard to any relevant matter, including the built form controls (development standards) for the locality.

## 17 How will the use of public open space be controlled?

- (1) The location of public open space is identified on the map.
- (2) Public open space can be developed for any purpose that is consistent with a plan of management applying to that open space.
- (3) In the absence of a plan of management, only exempt development and development for the purpose of recreation facilities can be carried out on public open space.
- (4) Development on public open space, other than exempt development, is to be regarded as Category Two development.
- (5) If public open space contains bushland, any development which will disturb that bushland should be carried out only if a plan of management has been prepared which specifically assesses the need to preserve and protect that bushland, having regard to the matters set out in Schedule 6 (Preservation of bushland), and the consent authority is satisfied that the disturbance of the bushland is essential for a purpose in the public interest and no reasonable alternative is available to the disturbance of that bushland.
- (6) Upon acquisition by the Council of any land shown on the map as reserved for public open space, and on vesting in the Council of land dedicated to the Council for the purposes of public open space, the land shall be deemed to be public open space for the purposes of this clause.

**Note.** Any development of public open space must also be consistent with a plan of management for that land prepared in accordance with the *Local Government Act 1993*, in the case of public open space that is owned by the Council, or a plan of management prepared in accordance with the *Crown Lands Act 1989*, in the case of public open space that is Crown Land.



**18 How will the built form of development be controlled?**

- (1) Built form will be controlled in accordance with the general principles of development control, the desired future character of the locality and the development standards set out in the Locality Statement.
- (2) Strict compliance with development standards, however, does not guarantee that the development is consistent with either the general principles of development control or the desired future character of the locality.
- (3) Nothing in this plan requires development to comply strictly with a quantitative requirement made in any general principle of development control.

**19 When is a masterplan required?**

- (1) A masterplan is a document (consisting of written information, maps and diagrams) that makes more detailed provisions relating to development of the land to which it relates than this plan. A masterplan:
  - (a) outlines long-term proposals for development of the entire site to which the masterplan relates, and
  - (b) explains how those proposals address the range of matters outlined below.
- (2) Where a Locality Statement requires development of land to be assessed with regard to a masterplan, the consent authority must not grant consent to that development unless
  - (a) a masterplan for the development of the land has been adopted by the consent authority and the consent authority has had regard to it, or
  - (b) the consent authority has waived the requirement for the masterplan under subclause (3), or
  - (c) a draft masterplan for the land has been submitted to the consent authority for adoption, but either has been rejected by the consent authority or has not been adopted before the development application is deemed to have been refused by the Act.

If a Locality Statement requires development of land to be assessed with regard to a masterplan, but paragraph (b) or (c) applies, the consent authority must not grant consent to that development unless it has had regard to all matters listed in subclause (5) that are relevant to the proposed development.

- (3) The consent authority may waive the requirement for a masterplan, but only if it is satisfied:
  - (a) that the proposed development is of a minor nature only and is ancillary to the current use of the land, or
  - (b) that the development to which the development application relates is for the purpose of providing public infrastructure or utility installations, or
  - (c) that the proposed development complies, without variation, with all of the built form control in the Locality Statement.
- (4) A masterplan may be prepared by, or on behalf of, the owner of the land concerned following consultation with the consent authority.
- (5) A masterplan is to address, illustrate and explain, where appropriate, proposals covering the following range of matters (but is not limited to them):
  - (a) design principles drawn from an analysis of the site and its context,
  - (b) phasing of development,
  - (c) distribution of land uses, including foreshore public access and open space,
  - (d) subdivision pattern,
  - (e) building envelopes and built form controls,
  - (f) pedestrian, cycle and road access and circulation network, with particular regard to public transport servicing,
  - (g) parking provisions,
  - (h) infrastructure provision,
  - (i) heritage conservation, including both Aboriginal and European heritage,
  - (j) remediation of the site,
  - (k) provision of public facilities,

- (l) provision of open space, its function and landscaping,
  - (m) impact on, and improvements to, the public domain,
  - (n) identification and conservation of native flora and fauna habitat on the site, including any threatened species, populations or ecological communities,
  - (o) the principles of ecologically sustainable development,
  - (p) stormwater drainage and water management,
  - (q) bushfire hazard management,
  - (r) the relevant general principles of development control outlines in Part 4, and
  - (s) any other matter it is required to address by the relevant Locality Statement.
- (6) Immediately after receiving a draft masterplan, the consent authority must advertise it in a newspaper circulating in the locality and exhibit it at the Council's office for not less than 21 days, for public comment. The consent authority must consider any written submissions made about the content of the masterplan during the exhibition period.
- (7) After considering a draft masterplan, the consent authority:
- (a) may adopt the masterplan without variation, or
  - (b) may adopt the masterplan with such variations as it considers appropriate, or
  - (c) may reject the masterplan, specifying the grounds upon which the masterplan is rejected.
- (8) A masterplan may be amended by a subsequent masterplan.
- (9) An amendment to a masterplan may be dealt with concurrently with a development application.

**20 Can development be approved if it does not comply with a development standard?**

- (1) Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.

- (2) In localities A2, A4, A5, A7, B2, B9, C8 and C10, the minimum area per dwelling required by the housing density standard is deemed to be the minimum allotment size for allotments created by subdivision.
- (3) Where consent is granted for development that does not comply with one or more development standards, the Council is to ensure that the circumstances of the case and reasons for granting consent (in such a way that does not comply with the development standards) are included in a public register of such consents.
- (4) This clause does not apply in relation to a development standard relating to maximum building height established by the Building Heights Map within the Dee Why Town Centre Locality Statement (E21).

## **21 Can land be subdivided?**

- (1) Land can be subdivided so long as:
  - (a) The resulting allotments can be developed in accordance with this plan, or
  - (b) The resulting allotments contain buildings or works lawfully created or approved.

Subclause (1) (b) does not apply to the following localities:

- (2) A2 Booralie Road, A4 Myoora Road, A5 McCarrs Creek Road, A7 Mona Vale Road North, B9 Mona Vale Road East, B2 Oxford Falls Valley, C8 Belrose North and C10 Mona Vale Road West.
- (3) In addition to other matters specified in this plan, the consent authority must be satisfied that the proposed development is consistent with the provisions of Schedule 7 (Matters for consideration in a subdivision of land) before approving an application for consent to subdivide land.

## **22 When is a site analysis required?**

- (1) Consent must not be granted for any development, except complying development, involving the erection of, or additions to, a building, or the subdivision of land unless the consent authority has considered a site analysis.
- (2) A site analysis should:
  - (a) contain information, where appropriate, about the site and its surrounds as described in Schedule 8 (Site analysis), and

- (b) be accompanied by a written statement explaining how the design of the proposed development responds to the site analysis, and the relevant general principles of development control in Part 4 and the Locality Statement.

**Note.** A site analysis is a drawing that records details of the site and its surrounds. Depending on the scale and the nature of the development proposed, a site analysis might simply take the form of notation on the development plan. For proposals likely to have greater impacts, a separate drawing might be required. In either event, a site analysis should not be seen as a standard exercise and the amount of information required in a site analysis will vary from proposal to proposal.

### **23 What development is advertised development?**

- (1) The following development is advertised development for the purposes of the Act:
  - (a) development on or adjacent to public open space that will disturb bushland,
  - (b) development for the purpose of potentially offensive industries and potentially hazardous industries,
  - (c) development involving the creation of two or more dwellings (other than granny flat),
  - (d) development which involves the demolition of an item identified as having heritage significance in this plan,
  - (e) development for the purpose of a Category A remediation work, unless the remediation work is designated development or State significant development,
  - (f) development that is or involves development classified as Category Three,
  - (g) development on land owned by the State or Commonwealth Government, or institutions which promote the physical, religious, social, cultural or intellectual welfare of persons in the community, if the development is different from the land's current use or any use for which it was held by the government department or authority or institution.
- (2) Clause 15 applies to an application for consent to development described in subclause (1) (g).

**24 What development is State significant development?**

Deleted.

**25 What notification requirements are there for remediation work?**

Notification requirements for remediation work are contained in Schedule 9.

**26 What public exhibition period applies to development applications for category A remediation work?**

Pursuant to section 29A of the Act, the period specified in clause 65 (5) (d) of the *Environmental Planning and Assessment Regulation 1994* is extended to 30 days in relation to development for the purposes of category A remediation work identified as advertised development in clause 23.

**27 When is category B remediation work ancillary to other development?**

- (1) A remediation work that would of itself be a category B remediation work but which is ancillary to designated development that requires development consent may, as an applicant chooses:
  - (a) be made part of the subject of the development application for the designated development instead of being made the subject of a separate development application, or
  - (b) be treated as a category B remediation work.
- (2) However, a category A remediation work must be treated a such even if it is ancillary to development that may be carried out without consent.
- (3) A remediation work that would of itself be a category A remediation work and constitute designated development does not, just because it is ancillary to other development:
  - (b) render the other development designated development, or
  - (c) cause that other development to become development for which development consent is required.

**28 When should applications for category A remediation works not be refused?**

- (1) Consent for development for the purpose of a category A remediation work should not be refused unless the consent authority is satisfied that there would be a more significant risk of harm to human health or some other aspect of the environment from the carrying out of the work than there would be from the use of the land concerned (in the absence of the work) for any purpose for which it may lawfully be used.
- (2) Deleted

**29 On what grounds can applications for housing for older people or people with disabilities not be refused?**

- (1) This clause does not apply to land within the B6 War Veterans locality.
- (2) Consent for development for the purpose of housing for older people or people with disabilities cannot be refused on the grounds of:
  - (a) **building height:** if all proposed buildings are 8 metres or less in height when measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point, or
  - (b) **density and scale:** if the density and scale of the buildings, when expressed as a floor space ratio is:
    - (i) 0.5:1 or less, except as provided by subparagraph (ii), or
    - (ii) 0.75:1 or less, for hostels and residential care facilities located within 400 metres walking distance of a public transport node (being a public transport facility such as a railway station, bus stop, or ferry wharf, that is serviced on a frequent and regular basis in daylight hours), or

- (c) **landscaped area:** if a minimum of 35m<sup>2</sup> of landscaped area per dwelling and 25m<sup>2</sup> of landscaped area per hostel or residential care facility bed is provided, or
- (d) **parking:** if at least the following is provided:
  - (i) in the case of a hostel or residential care facility, at least 1 parking space for each 10 beds in the hostel or residential facility, and 1 parking space for each two persons to be employed in connection with the development and on duty at any one time, and 1 parking space suitable for an ambulance, and
  - (ii) in the case of dwelling, at least 0.5 car space for each bedroom where the development application is made by a person other than the Department of Housing or a local government or community housing provider, or 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, the Department of Housing or a local government or community housing provider, or
- (e) **visitor parking:** if, in the case of development that comprises less than 8 dwellings and is not situated on a clearway, no visitor parking is provided within the development, or
- (f) **landscaped areas:** if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this clause applies) that is not built on, paved or otherwise sealed, there is soil or a sufficient depth to support the growth of trees and shrubs on an area (preferably located at the rear of the site) of not less than the width of the site multiplied by 15% of the length of the site, or
- (g) **private open space for in-fill housing:** if:
  - (i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres



long and is accessible from a living area located on the ground floor, and

- (ii) in the case of any other dwelling, there is a balcony with an area of not less than 6 square metres, that is not less than 1.8 metres in length and that is accessible from a living area.

### **30 What applications have to be referred to the RTA?**

Deleted.

### **31 How can the Council make tree preservation orders?**

- (1) The Council may, by resolution, make, revoke or amend a tree preservation order.
- (2) A person must not carry out or permit or direct or cause any ringbarking, cutting down, topping, lopping, poisoning, removing or wilful destruction of any tree or trees to which a tree preservation order applies without development consent.
- (3) This clause does not apply in respect of:
  - (a) trees within a State Forest, or within a timber or forest reserve, within the meaning of the *Forestry Act 1916*, or
  - (b) trees in a national park, within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (c) the trimming or removal of trees in accordance with section 48 of the *Electricity Supply Act 1995* or by an electricity distributor in accordance with clause 47 of the *Electricity Supply (General) Regulation 1996*, or
  - (d) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.
- (4) A tree preservation order and any revocation or amendment of such an order does not have effect until it has been published in a newspaper circulating the Warringah local government area.

**32 What effect do covenants and similar instruments have on development permitted by this plan?**

Any agreement, covenant or similar instrument to the extent that it purports to restrict or prohibit development allowed by this plan, or the granting of a consent, does not apply. This does not affect the rights or interests of any public authority under any registered instrument.

**33 Are heliports ancillary to housing?**

For the purposes of this plan, heliports are not ancillary to housing.

## Part 3 Reservations

### 34 What land is reserved to be acquired for a public purpose?

The map identifies land which is reserved for public open space, regional open space, local roads or arterial roads.

Any such land is referred to in this plan as *reserved land*.

### 35 How will reserved land be acquired?

- (1) The owner of any reserved land may, by notice in writing, require the responsible authority to acquire that land:
  - (a) In the case of land reserved for public open space, the responsible authority is the Council.
  - (b) In the case of land reserved for regional open space, the responsible authority is the corporation.
  - (c) In the case of land reserved for local roads, the responsible authority is the Roads and Traffic Authority.
  - (d) In the case of land reserved for arterial roads, the responsible authority is the Roads and Traffic Authority.
- (2) Upon receipt of a notice referred to in subclause (1), the public authority concerned shall acquire any reserved land to which it applies, subject to subclauses (3) and (4).
- (3) The Council need not take any action to acquire land referred to in subclause (1)(a) for 90 days (or for such other period as may be agreed between the owner and the Council before that period expires) after receiving the notice if the Council, within 14 days after receiving the notice, notifies the owner that it is reviewing the planning controls applying to the land.
- (4) The Council need not acquire the land referred to in subclause (1)(a) pursuant to the notice if the land has ceased to be reserved land, or the Council has decided to prepare a local environmental plan to remove the reservation of the land, before the period of 90 days (or the agreed period) expires.

**Note.** Land is acquired by mutual agreement between the landowner and the responsible authority. In the event that mutual agreement cannot be reached land is acquired in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

**36 Can development be allowed on reserved land?**

- (1) Consent may be granted for development on reserved land provided it does not render the land unfit for the purpose for which it is reserved.
- (2) Before granting consent to development on reserved land, the consent authority must consider:
  - (a) The effect of the proposed development on the costs of acquisition,
  - (b) The imminence of the acquisition, and
  - (c) The costs associated with the reinstatement of the land so it can be used for the purpose for which it is reserved.
- (3) If the land is reserved for public open space or regional open space and contains bushland, the consent authority must, before granting consent, also assess the need to preserve and protect that bushland, having regard to the matters set out in Schedule 6 (Preservation of bushland), and be satisfied that disturbance of the bushland is essential for proposed development that is in the public interest and that no reasonable alternative is available to the disturbance of that bushland.

**37 How is a reservation removed?**

Land ceases to be reserved land for the purposes of this plan when it is acquired by the authority responsible for acquiring it.

## **Part 4 General principles of development control**

### **Division 1 General**

#### **38 Glare and reflection**

Development is not to result in overspill or glare from artificial illumination, or sun reflection, which would unreasonably diminish the amenity of the locality.

#### **39 Local retail centres**

Local retail centres are to incorporate a range of small-scale shops and business uses at street level with offices or low-rise shop-top housing (being housing not on the ground floor) above to create places with a village-like atmosphere that provide a safe and comfortable environment for pedestrians and a range of business and community uses meeting the needs of the surrounding area.

Development is to integrate with the established pattern of the centre and the continuity of existing streetscapes is to be maintained.

The building height in local retail centres is to accord with the height limit for the applicable locality, unless the Locality Statement provides otherwise.

Development that adjoins residential land is not to reduce the amenity enjoyed by adjoining occupants. In this regard the built form of development in the local retail centre is to provide a transition to adjacent residential development, including reasonable setbacks from side and rear boundaries, particularly at the first floor level.

Other built form controls set out in a Locality Statement which are not specifically addressed to a local retail centre are not to be considered.

**Note.** The location of local retail centres is shown on the map.

#### **40 Housing for older people or people with disabilities**

##### **Support services:**

Development for the purpose of housing for older people or people with disabilities must provide residents with adequate access to:

- (a) shops, banks and other retail and commercial services that residents may reasonably require, and
- (b) community services and recreation facilities, and
- (c) the practice of a general medical practitioner.

Access is adequate only if:

- (a) the facilities and services referred to above are located at a distance of not more than 400 metres from the site of the proposed development, or
- (b) there is a transport service available to the residents who will occupy the proposed development:
  - (i) that is located at a distance of not more than 400 metres from the site of the proposed development, and
  - (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the relevant facilities or services, and
  - (iii) that is available both to and from the proposed development during daylight hours at least once per day from Monday to Friday (both days inclusive).

The consent authority must not consent to development for the purpose of housing for older people or people with disabilities on land that adjoins land in a locality used primarily for urban purposes unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have reasonable access to:

- (a) home delivered meals, and
- (b) personal care and home nursing, and
- (c) assistance with housework.

In deciding whether the level of access residents have to each facility and service listed above is reasonable (whether provided by the management or by an external service provider) the consent authority will consider the following:

- the type of housing proposed and the needs of the people who are most likely to occupy that type of housing, and
- whether the type or scale of housing proposed could, or may reasonably be expected to, provide some facilities and services on-site in a cost-effective manner, and
- the affordability of any relevant facility or service.

If infrastructure for a facility or service is provided as part of the development, it will be available to residents when the housing is ready for occupation. In the case of a staged development, the buildings and works comprising the infrastructure can be provided proportionately according to the number of residents in each stage.

**Wheelchair access:**

Development for the purpose of housing for older people or people with disabilities must comply with the following access standards:

- (a) **site gradient:**
- (i) if the whole of the site has a gradient of less than 1:10, 100% of the hostel or residential care facility beds and 100% of the dwellings must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road or an internal road or a driveway that is accessible to all residents, or
  - (ii) if the whole of the site does not have a gradient of less than 1:10, a percentage (which is not less than the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and which in this subparagraph is called *the specified minimum percentage*) of any hostel or residential care facility beds and the specified minimum percentage of any dwellings must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road or an internal road or a driveway that is accessible to all residents, and
- (b) **road access:** at least 10% of any hostel or residential care facility beds and at least 10% of any dwellings which meet the requirements of paragraph (a) must have wheelchair access by a continuous path of travel (within the meaning of AS1428) to an adjoining public road, and
- (c) **common areas:** access must be provided so that a person using a wheelchair can use common areas and common facilities associated with the development, and
- (d) **adaptability:** 10% of any hostel or residential care facility beds and 10% of any dwellings which meet the requirements of paragraph (a) must also have, or be capable of being modified so that they have, wheelchair access by continuous path of travel (within the meaning of AS 1428) to all essential areas and facilities inside the hostel, residential care facility or dwellings, including a toilet, bathroom, bedroom and a living area.

**Other principles and standards**

Development for the purpose of housing for older people or people with disabilities must also comply with the standards and principles in Schedule 16.

#### **41 Brothels**

Brothels are not to be visible from, or located in close proximity to, churches, schools, medical centres, community facilities, places of high pedestrian activity or any place frequented by children for care, recreational or cultural purposes. The appearance of brothels is to be discreet and is not to include shop fronts, window displays or signs.

#### **42 Construction sites**

Construction sites are not to unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment.

In particular:

- adequate areas are to be allocated for the handling and storage of materials which are safe and do not interfere with pedestrian and traffic movement,
- the timing, frequency, and routes of construction vehicle movements are to be safe and minimize impact on roads, pedestrian and traffic movement and surrounding residents,
- construction waste is to be minimised, legally handled, transported and disposed of,
- dedicated safe pedestrian access is, at all times, to be provided around the site, and
- construction sites will be managed to ensure air and water borne pollutants such as noise, dust, odour and liquids and the like are minimised.

### **Division 2 Health and safety**

#### **43 Noise**

Development is not to result in noise emission which would unreasonably diminish the amenity of the area and is not to result in noise intrusion which would be unreasonable to the occupants.

In particular:

- noise from combined operation of all mechanical plant and equipment must not general noise levels that exceed the ambient background noise by more than 5 dB (A) when measured in accordance with the Environment Protection Authority's Industrial Noise Policy at the receiving boundary of residential and other noise-sensitive land uses, and



- development near existing noise generating activities, such as industry and roads, is to be designed to mitigate the effect of that noise, and
- waste collection and delivery vehicles are not to operate in the vicinity of residential uses between 10 pm and 6 am.

#### 44 Pollutants

No development is to be carried out which, when in operation and when all measures proposed to minimize its impact on the locality have been employed (including measures to isolate the use from existing or likely future development on other land in the locality), would result in the emission of atmospheric (including odours), liquid or other pollutants which would unreasonably diminish the amenity of adjacent properties, the locality or waterways.

#### 45 Hazardous uses

- (1) Development, when in operation and when all measures proposed to minimise its impact on the locality have been employed (including measures to isolate the use from existing or likely future development on the other land in the locality), must not pose a significant risk in relation to:
  - (a) human health, life or property, or
  - (b) the biophysical environment.
- (2) Applications for consent to development which, in the absence of any measures proposed to minimise its impact on the locality, would pose a risk such as any of those described above, must not be granted unless the consent authority has considered:
  - (a) A preliminary hazard analysis prepared in accordance with the current circulars or guidelines published by the Department of Urban Affairs and Planning, and
  - (b) Whether there are any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application).

**Note.** In determining whether the use of land is likely to pose a risk such as those described above, or is likely to cause noise or pollution, consideration must be given to current circulars or guidelines published by the Department of Urban Affairs and Planning relating to

hazardous or offensive development. At present such guidelines are limited to the "Hazardous Industry Planning Advisory Paper No 4, Risk Criteria for Land Use Safety Planning".

#### **46 Radiation emission levels**

Radiation emission levels from mobile phone base stations, antennas and transmitters which emit electromagnetic radiation are to be as low as practicable or the facilities are to be located as far as practicable from dwellings and other areas where people are concentrated.

#### **47 Flood affected land**

Development on flood affected land is to be sited and designed to minimize impacts of flooding on property and have regard to the existing flood regime.

In particular:

- development is not to reduce flood storage area or impact upon the existing flood regime,
- habitable floor areas of buildings are to be at a level of at least 500mm above the 1% annual exceedence probability flood level, and
- buildings or works affected by flooding are to be constructed of flood compatible building materials.

For the purposes of this clause, *flood affected land* means land below the 1 per cent annual exceedence probability flood level.

#### **48 Potentially contaminated land**

- (1) The consent authority must not consent to the carrying out of development on land unless:
  - it has considered whether the land is contaminated, and
  - if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
  - if the land requires remediation to be made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried out.
- (2) Consent for development on any of the following land must not be granted unless the consent authority has considered a preliminary investigation of the land concerned prepared in

accordance with the contaminated land planning guidelines under section 145C of the Act:

- land that is specified within a preliminary investigation order under the *Contaminated Land Management Act 1997*
- land on which development referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out
- any land, to the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purpose of a hospital
- any land in relation to which there is no knowledge (or incomplete knowledge) as to whether development referred to in Table 1 to the contaminated land planning guidelines has been carried out
- any land on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

#### **49 Remediation of contaminated land**

*State Environmental Planning Policy No 55 – Remediation of Land* applies to land to which this plan applies despite any other provision of this plan.

#### **49a. Acid Sulfate Soils**

Development on land identified as Class 1, 2, 3, 4 or 5 on the Acid Sulfate Soils Hazard Map is to be carried out in a manner that manages any disturbance to acid sulfate soils so as to minimise impacts on natural waterbodies and wetlands and on agriculture, fishing, aquaculture, urban activities and infrastructure.

In particular:

Consent must not be granted to proposed works outlined below for the class of land concerned, that disturb more than one tonne of soil or that are likely to lower the watertable, unless the consent authority has considered an acid sulfate soils management plan prepared in accordance with the *Acid Sulfate Soils Assessment Guidelines*. However, an acid sulfate soils management plan is not required where a preliminary assessment of the proposed works undertaken in accordance with these guidelines indicates that the proposed works need not be carried out pursuant to an acid sulfate soils management plan, and a copy of the assessment has been given to the Council.

Class of land as shown on Acid Sulfate Soils Hazard Map	Works
1	Any works
2	Works below natural ground surface Works by which the watertable is likely to be lowered
3	Works beyond 1 metre below natural ground surface Works by which the watertable is likely to be lowered beyond 1 metre below natural ground surface
4	Works beyond 2 metres below natural ground surface Works by which the watertable is likely to be lowered beyond 2 metres below natural ground surface
5	Works on land below the 10 metres AHD contour and within 500 metres of adjacent Class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land

**Note.** The works may occur in the carrying out of agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial waterbodies (including canals, dams and detention basins), foundations, flood mitigation works or other works that are likely to lower the watertable

### Division 3 Public domain

#### 50. Safety and security

Development is to maintain and where possible enhance the safety and security of the locality.

In particular:

- buildings are to overlook streets as well a public and communal places to allow casual surveillance.
- service areas and access ways are to be either secured or allow casual surveillance.
- there is to be adequate lighting of entrances and pedestrian areas,
- after hours land use activities are to be located along primary pedestrian routes.

- public toilets, telephones and other public facilities are to be located so as to have direct access and to be clearly visible from well trafficked public spaces, and
- entrances to buildings are to be from public streets wherever possible.

### **51. Front fences and walls**

Fences, including side fences, located within the street set back area (as identified in the Locality Statement) are to be compatible with the existing streetscape character unless the applicable Locality Statement provides otherwise.

Fences are to be constructed so as to allow for casual surveillance except on main roads where it can be demonstrated that a solid fence is consistent with the existing streetscape and is required to mitigate traffic noise.

Where solid fences are required they are to be articulated to provide visual interest or set back to allow for landscaping to adequately soften and screen the appearance of such fences

Note. The erection of fences which are not greater than 1.2 metres in height is generally exempt development and does not require development consent. Refer to clause 7 and Schedule 1 (Exempt development).

### **52. Development near park, bushland reserves and other public open spaces**

Development adjacent to parks, bushland reserves and other public open spaces, including land reserved for public open space, is to complement the landscape character and public use and enjoyment of that land.

In particular:

- where appropriate, housing is to front public open spaces,
- public access to public open spaces is to be maximized,
- buildings are to be located to provide an outlook to public open spaces, without appearing to privatise that space,
- development is to provide a visual transition between open space and buildings including avoiding abutting public open spaces with back fences,
- views to and from public open spaces are to be protected, and
- buffers for bushfire protection are to be provided on private land and not on public land.

If public open space or land reserved for public open space contains bushland, development on that land is not to threaten the protection or preservation of the bushland.

**Note.** The protection or preservation of bushland may be threatened by a number of direct and indirect processes, including the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland.

### 53 Signs

The number, size, shape, extent, placement and content of signs are to be limited to the extent necessary to:

- allow the reasonable identification of the land use, business, activity or building to which the sign relates, and
- ensure that the sign is compatible with the design, scale and architectural character of the building or site upon which it is to be placed, and
- ensure that the sign does not dominate or obscure other signs or result in visual clutter, and
- ensure that the sign does not endanger the public or diminish the amenity of nearby properties.

In particular:

- Except where the applicable Locality Statement provides otherwise, the maximum area of signage (including the area of any existing signs) above the top side of an awning fascia or above 4.6m in height above ground level (whichever is the lower) is:

Signs (above awning)

Land Use	Maximum area (1 street frontage)	Maximum area (more than 1 street frontage)
Business uses	1m <sup>2</sup> for every 5m frontage of a building up to a maximum of 4m <sup>2</sup>	1m <sup>2</sup> for every 8m frontage of a building up to a maximum of 4m <sup>2</sup>
Industrial and warehouse uses	1m <sup>2</sup> for every 2m frontage of a building up to a maximum of 8m <sup>2</sup>	1m <sup>2</sup> for every 4m frontage of a building up to a maximum of 8m <sup>2</sup>

- Except where the applicable Locality Statement provides otherwise, the maximum area of signage (including the area of any existing signs) below the top side of an awning fascia return of below 4.6 metres above ground level (which ever is the lower) is:

## Signs (below awning)

<b>Land Use</b>	<b>Maximum area (1 street frontage)</b>	<b>Maximum area (more than 1 street frontage)</b>
Housing and home businesses	600cm <sup>2</sup>	600cm <sup>2</sup>
Other business uses	1m <sup>2</sup> for every 2m frontage of a building up to a maximum of 5m <sup>2</sup>	1m <sup>2</sup> for every 4m frontage of a building up to a maximum of 5m <sup>2</sup>
Industrial and warehouse uses	1m <sup>2</sup> for every 4m frontage of a building up to a maximum of 5m <sup>2</sup>	1m <sup>2</sup> for every 8m frontage of a building up to a maximum of 5m <sup>2</sup>

- Signs displayed on dwellings are to be attached to the ground floor façade of the dwelling unless the land is located on a main road or the dwelling is not visible from the street, in which case the sign may be attached to a front fence, and
- No more than one sign is to be located above the awning level for business uses, and
- Tenancy boards and the like are encouraged to be in the form of consolidated signs, and
- If pole or pylon signs are appropriate, they are to have a height of no more than 6 metres, and
- Awning fascia signs are not to exceed the height of the awning return, and
- Signs are not to emit excessive glare or cause excessive reflection, and
- Signs are not to obscure views of vehicles, pedestrians or potentially hazardous road features, and
- Signs are not to be capable of being confused with or to reduce the effectiveness of, traffic control devices.

**Note.** Certain types of signs do not require development consent. Refer to Schedule 1 (Exempt development). Certain types of signs are prohibited. Refer to Schedule 4 (Prohibited signs).

## **Division 4      Site planning and building design**

### **54      Provision and location of utility services**

If proposed development will involve a need for them, utility services must be provided to the site of the development, including provision for the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage. Utility services including service structures, plant and equipment are to be located below ground or be designed to be an integral part of the development and suitably screened from public places or streets. Where possible, underground utility services are to be provided in a common trench.

Habitable buildings must be connected to Sydney Water Corporation's sewerage system if within a locality where the density is one dwelling per 1,050m<sup>2</sup> or greater. On other land, the consent authority may consider on-site disposal of effluent where the sewerage systems or works are able to operate over the long term without causing unreasonable adverse effects.

### **55      Site consolidation in "medium density areas"**

Apartment development in the "medium density areas" as shown on the map and localities E4, E7, E10, E13, E14, E16, E19 and E20 shall not result in adjacent allotment(s) that have areas or dimensions, or are constrained in other ways, that would render such allotment(s) incapable of compliance with the relevant Locality Statement and general principles of development control.

Standards for side boundary envelopes and side setbacks for built form may be contravened where they would otherwise apply to basement carparking structures and private open space, in the case of existing narrow width allotments that make compliance with these standards unreasonable and that are surrounded by medium density development or apartment style housing. These built form controls may be contravened only where the proposed development is consistent with the desired future character of the locality and complies with the following additional side boundary envelope and side setback built form standards:



- basement carparking structures may be positioned up to a minimum of 2 metres from the side boundary but shall be no more than 1 metre above natural ground level, and
- private open space may extend to a minimum of 3.5 metres from a side boundary.

#### **56 Retaining unique environmental features on sites**

Development is to be designed to retain and complement any distinctive environmental features of its site and on adjoining and nearby land.

In particular, development is to be designed to incorporate or be sympathetic to environmental features such as rock outcrops, remnant bushland and watercourses.

#### **57 Development on sloping land**

On sloping land, the height and bulk of development, particularly on the downhill side, is to be minimised and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope.

In particular:

- the amount of fill is not to exceed more than 1 metre in depth, and
- fill is not to spread beyond the footprint of the building, and
- excavation of the landform is to be minimised.

The geotechnical stability of sloping land to support development is to be demonstrated. Consent must not be granted for development involving the erection of a structure, including additions to an existing structure, on land identified as being potentially subject to landslip on the Landslip Hazard Map unless the consent authority has considered a report from a suitably qualified engineer as to the geotechnical stability of the land to support such development and an assessment of stormwater prepared by a suitably qualified hydraulic engineer.

#### **58 Protection of existing flora**

Development is to be sited and designed to minimize the impact on remnant indigenous flora, including canopy trees and understorey vegetation, and on remnant native ground cover species.

**59 Koala habitat protection**

This clause applies to parcels of land, being all adjacent or adjoining land held in the same ownership, that are:

- Greater than 1 hectare in area, and
- Potential koala habitat.

Before granting consent to development on land to which this clause applies, the consent authority, on information obtained from a person with appropriate qualifications and experience in biological science and fauna survey and management, must be satisfied as to whether or not the land is core koala habitat.

Development within land that is core koala habitat must be consistent with a plan of management for that habitat prepared in accordance with Schedule 11 (Koala feed tree species and plans of management).

For the purposes of this clause:

*core koala habitat* consists of an area of land with a resident population of koalas, evidence of which includes breeding females (that is, females with young) and recent sightings of and historical records of a population.

*potential koala habitat* consists of areas of native vegetation where the trees of the types listed in Schedule 11 constitute as least 15% of the total number of trees in the upper and lower strata of the tree component.

**60 Watercourses and aquatic habitat**

Development is to be sited and designed to maintain and enhance natural watercourses and aquatic habitat.

**Note.** Development within 40 metres of a watercourse requires a permit pursuant to the *Rivers and Foreshores Improvement Act 1948*, from the Department of Land and Water Conservation.

**61 Views**

Development is to allow for the reasonable sharing of views.

**62 Access to sunlight**

Development is not to unreasonably reduce sunlight to surrounding properties.

In the case of housing:

- Sunlight, to at least 50% of the principal private open spaces, is not to be reduced to less than 2 hours between 9am and 3pm on June 21, and
- Where overshadowing by existing structures and fences is greater than this, sunlight is not to be further reduced by development by more than 20%.

### **63 Landscaped open space**

Landscaped open space is to be of such dimensions and slope and of such characteristics that it will:

- enable the establishment of appropriate plantings to maintain and enhance the streetscape and the desired future character of the locality, and
- enable the establishment of appropriate plantings that are of a scale and density commensurate with the building height, bulk and scale, and
- enhance privacy between dwellings, and
- accommodate appropriate outdoor recreational needs and suit the anticipated requirements of dwelling occupants, and
- provide space for service functions, including clothes drying, and
- facilitate water management including on-site detention and infiltration of stormwater, and
- incorporate the establishment of any plant species nominated in the relevant Locality Statement, and
- enable the establishment of indigenous vegetation and habitat for native fauna, and
- conserve significant features of the site.

### **63A Rear building setback**

In localities where a rear building setback applies, the objectives of the rear building setback controls are:

- to create a sense of openness in rear yards, and
- to preserve the amenity of adjacent land, and
- to maintain the visual continuity and pattern of buildings, rear gardens and landscape elements, and
- to provide opportunities to maintain privacy between dwellings, and

- in medium density areas, to minimise the visual effect of podiums and to control the density of development, and
- to provide opportunities for the planting of substantial native trees.

## 64 Private open space

Private open space is to be:

- provided for all housing, and
- clearly set apart for private use, and
- directly accessible from a living area of the dwelling and capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children's play, and
- capable of receiving not less than 2 hours of sunlight between 9am and 3pm on June 21 over at least 50% of the areas of the private open space (in the case of ground level private open space and other than for apartment style housing).

In particular:

- The minimum area and dimensions of private open space required for different types of housing are as follows:

**Table**

Housing type	Area and minimum dimensions
Dwellings (other than apartment style housing) located at ground level with 1 or 2 bedrooms	A total of 35m <sup>2</sup> with minimum dimensions of 3 metres
Dwellings (other than apartment style housing) located at ground level with 3 or more bedrooms	A total of 60m <sup>2</sup> with minimum dimensions of 5 metres
Apartment style housing (excluding town houses and villa homes)	10m <sup>2</sup> with minimum dimensions of 2.5 metres

For the purposes of reading this table, *apartment style housing* means housing in “medium density areas” shown on the map or in Localities E4-E14 and E16-E19 or shop top housing.

For the purposes of calculating the number of bedrooms, studies or other such rooms capable of being used as a bedroom will also be counted as a bedroom.

Private open space is not to be located in the street setback area unless the site is a corner allotment or the applicable Locality Statement provides otherwise.

## **65 Privacy**

Development is not to cause unreasonable direct overlooking of habitable rooms and principal private open spaces of other dwellings.

In particular:

- The windows of one dwelling are to be located so they do not provide direct and close views (ie from less than 9 metres away) into the windows of other dwellings, and
- Planter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment.

**Note.** The effective location of windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass. Where these are used, they should be integrated with the building design and have minimal negative effect on the amenity of residents and neighbours.

## **66 Building bulk**

Buildings are to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and are not to visually dominate the street or surrounding spaces, unless the applicable Locality Statement provides otherwise.

In particular:

- side and rear setbacks are to be progressively increased as wall height increases,
- large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief, and
- appropriate landscape plantings are to be provided to reduce the visual bulk of new building and works.

## **67 Roofs**

Roofs are to complement the local skyline. Lift overruns and other mechanical equipment is not to detract from the appearance of roofs.

## **68 Conservation of energy and water**

Development is to make the most efficient use of energy and water.

In particular:

- the orientation, layout and landscaping of buildings and works and their sites are to make the best use of natural ventilation, daylight and solar energy,
- site layout and structures are to allow reasonable solar access for the purposes of water heating and electricity generation and maintain reasonable solar access to adjoining properties,
- buildings are to minimise winter heat loss and summer heat gain,
- landscape design is to assist in the conservation of energy and water,
- reuse of stormwater for on-site irrigation and domestic use is to be encouraged, subject to consideration of public health risks,
- subdivision of land must be generally in accordance with the guidelines set out in the document published by the former Sustainable Energy Development Authority under the title *Solar Access for Lots: Guidelines for Residential Subdivision*, copies of which are available at the offices of the council.

#### **69 Accessibility – public and semi-public buildings**

The siting, design and construction of premises available to the public are to ensure an accessible continuous path of travel, so that all people can enter and use the premises. Such access is to comply with the requirements of the *Disability Discrimination Act 1992* of the Commonwealth and with Australian Standard AS 1428.2—1992, *Design for access and mobility—Enhanced and additional requirements—Buildings and facilities*

#### **70 Site facilities**

Site facilities including garbage and recycling bin enclosures, mailboxes and clothes drying facilities are to be adequate and convenient for the needs of users and are to have minimal visual impact from public places.

In particular:

- waste and recycling bin enclosures are to be adequate in size, durable, integrated with the building design and site landscaping, suitably screened from public places or streets and located for convenient access for collection, and
- housing which is required to have landscaped open space is to be provided with adequate open air clothes drying facilities which are suitably screened from public places or streets, and
- individual dwellings are to be provided with an area for general storage.

## **Division 5 Traffic, access and carparking**

### **71 Parking facilities (visual impact)**

Parking facilities (including garages) are to be sited and designed so as not to dominate the street frontage or other public spaces.

In particular:

- garage doors and carports are to be integrated into the house design where topography and other constraints of the site allow, and
- laneways are to be used to provide rear access to carparking areas where possible, and
- car parking is to be provided underground or in semi basements for apartment buildings and other large developments, and
- parking is to be located so that views of the street from front windows are not obscured.

**Note.** Individual Locality Statements may provide more detailed guidance regarding the location and design of carparking facilities.

### **72 Traffic access and safety**

Vehicle access points for parking, servicing or deliveries, and pedestrian access, are to be located in such a way as to minimize:

- traffic hazards, and
- vehicles queuing on public roads, and
- the number of crossing places to a street, and
- traffic and pedestrian conflict, and
- interference with public transport facilities.

Where practical, vehicle access is to be obtained from minor streets and lanes.

### **73 On-site loading and unloading**

Facilities for the loading and unloading of service, delivery and emergency vehicles are to be approximate to the size and nature of the development. On-site facilities are to be screened from public view and designed so that vehicles may enter and leave in a forward direction.

### **74 Provision of carparking**

Adequate off-street carparking is to be provided within the subject property boundaries having regard to:

- the land use, and
- the hours of operation, and
- the availability of public transport, and
- the availability of alternative carparking, and
- the need for parking facilities for courier vehicles, delivery/service vehicles and bicycles.

Unless the applicable Locality Statement provides otherwise:

- (a) if Schedule 17 (Carparking provision) specifies the minimum number of on-site parking spaces required in relation to a particular land use, or sets out a means of calculating that minimum number of spaces – at least that minimum number of spaces must be provided, or
- (b) if Schedule 17 provides for comparisons to be drawn with developments for a similar purpose or for surveys to be taken – comparisons must be drawn or surveys taken and no less than the appropriate number of spaces must be provide, or
- (c) if Schedule 17 requires reference to be made to specified design principles – reference must be made to those design principles.

If Schedule 17 requires for adequate provision of other facilities, those facilities must be provided.

In Schedule 17:

**GFA** means gross floor area which is the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1400 millimetres above each floor level excluding:



- 
- (a) columns, fin walls, sun control devices and any elements, projections or works outside the general line of the outer face of the external wall, and
  - (b) lift towers, cooling towers, machinery and plant rooms, and ancillary storage space and vertical air-conditioning ducts, and
  - (c) carparking specifications which meet requirements of Council and internal access thereto, and
  - (d) space for the loading and unloading of goods.

**GLFA** means gross leasable floor area which is the sum of the area of each floor of a building where the area of each floor is taken to be the area within the internal faces of the walls, excluding stairs, amenities, lifts, corridors and other public areas but including stock storage area.

Carparking for land uses not identified in Schedule 17 must be adequate to serve the development having regard to the points set out above.

Despite Schedule 17, community title subdivisions are to include provision for one visitor parking space per five dwellings or part thereof. These spaces are to be located within the neighbourhood property lot.

For the purposes of calculating the number of bedrooms in a unit so as to calculate minimum parking requirements under Schedule 17, studies, lofts or other such rooms capable of being used as bedrooms will also be calculated as a bedroom.

## **75 Design of carparking areas**

Carparking, other than for individual dwellings, is to:

- avoid the use of mechanical car stacking devices, and
- not be readily apparent from public spaces, and
- provide safe and convenient pedestrian and traffic movement, and
- include adequate provision for manoeuvring and convenient access to individual spaces, and
- where possible, enable vehicles to enter and leave the site in a forward direction, and
- incorporate unobstructed access to visitor parking spaces, and
- be landscaped to shade parked vehicles, screen them from public view, assist in micro-climate management and create attractive and pleasant spaces, and
- provide on-site detention of stormwater where appropriate, and

- make reasonable provision for the carparking needs of people with physical disabilities.

Unless the applicable Locality Statement provides otherwise, design of carparking areas is to be provided in accordance with the most recent “Guide to Traffic Generating Developments” (NSW Roads and Traffic Authority) with the exception that individual dwellings are to have carparking spaces of not less than the following dimensions:

**Minimum carparking dimensions (individual dwellings)**

<b>Type of carparking space</b>	<b>Width and length</b>
Single Open	2.7m x 5.4m
Double Open	5.4m x 5.4m
Single Enclosed	3.0m x 5.4m
Double Enclosed	5.6m x 5.4m

## **Division 6      Soil and water management**

### **76      Management of stormwater**

Stormwater runoff from development is to discharge to a Council drainage system approved by the Council for the purpose and is to have minimal impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake, waterway or the like. Water quality control measures are to be provided in accordance with the Northern Beaches Stormwater Management Plan.

In particular, stormwater runoff is to be controlled using on-site stormwater detention in accordance with the Council's "On-site Stormwater Detention Technical Specification", except where it is demonstrated that:

- the discharge from the development will not pass through a drainage control structure such as a pipe, culvert, bridge, kerb and gutter or natural drainage system before reaching receiving waters such as the ocean, or
- the design of the stormwater drainage system is in accordance with the Council's standard specification for engineering works (AUSPEC 1), or
- the additional runoff created by the development will not adversely affect any natural or constructed drainage system either downstream or upstream of the development site, or
- the total post-development impervious area (roof, driveway, paving etc) will be less than 35% of the total site area, or
- the additional impervious surface resulting from the development will not exceed 50m<sup>2</sup> in the area, or the soil conditions are such that stormwater can be retained and disposed of on-site, but only if the case is established by a geotechnical report, or
- the site is within an established 100-year flood plain and the local drainage system is not adversely affected by lesser storm events.

Stormwater detention systems are to be visually unobtrusive and integrated with site landscaping.

Development must drain via gravity to a Council constructed or natural drainage system, unless drainage to such a system is not possible, in which case stormwater may be retained and disposed of on-site, where it can be demonstrated soil conditions so allow.

Development is to have regard to the Council's natural drainage systems, drainage easements and public drainage systems and be in accordance with the Council's draft policy "Drainage Easements and Building over Constructed Public Drainage Systems".

**Note.** Copies of the "On-site Stormwater Detention Technical Specification" and "Drainage Easements and Building over Constructed Public Drainage Systems" can be obtained from the Council.

## **77 Landfill**

Landfill is to have no adverse impact upon the visual and natural environment or adjoining and surrounding properties.

In particular:

- only uncontaminated fill is to be used, and
- the form, bulk, scale and location of landfill are to be controlled to ensure there will be no adverse impacts on adjoining or surrounding properties, and
- the integrity of the physical environment is to be preserved by ensuring the geotechnical stability of the work, and
- the landfill is not to create siltation or pollution of waterways and drainage lines, or degrade or destroy the landscape, landforms or bushlands, and
- where filling to create a building platform is proposed, all fill is to be contained within the footprint of the building, and
- rehabilitation and revegetation techniques are to be applied to the fill to maintain and enhance visual and scenic quality, and
- landfill is not to create airborne pollution

## **78 Erosion and sedimentation**

Development is to be sited and designed, and related construction work carried out, so as to minimise the potential for soil erosion.

Where some degree of soil erosion and sedimentation is likely to occur, it is to be managed at the source to prevent any reduction in water quality downstream of the development site.

In this case, a soil and water management plan which ensures minimum soil erosion and maintenance of downstream water quality that has been prepared in accordance with the Council's "Specification for Erosion and Sediment Control" and "Design and Specification Manuals for Engineering Works" is to be considered by the Council before consent for the relevant development is granted. The plan is to outline practices

proposed to control runoff, mitigate soil erosion and trap pollutants before these can reach downslope lands and receiving waters.

## **Division 7 Heritage**

### **79 Heritage control**

In relation to heritage, development is to:

- conserve the environmental heritage and cultural significance of Warringah, and
- conserve existing significant fabric, settings, relics and views associated with the heritage significance of heritage items and heritage conservation areas, and
- not adversely affect the heritage significance of heritage items and heritage conservation areas and their settings, and
- ensure that archaeological sites and places of Aboriginal significance are conserved, and
- ensure that the heritage conservation areas throughout Warringah retain their heritage significance.

In particular, before consent is granted for development that affects a heritage item or will be carried out within a heritage conservation area, the extent to which development would affect the heritage significance of the heritage item or heritage conservation area, including its setting, is to be assessed including:

- its significance in Warringah, and
- the contribution which any building, work, relic, tree or place affected by the proposed development makes to this heritage significance, and
- the measures proposed to conserve the heritage significance of the heritage item or heritage conservation area, and
- whether any archaeological site or potential archaeological site would be adversely affected, and
- whether any landscape or horticultural features of heritage significance would be affected.

Applications for consent to development relating to heritage items classified by this plan as being of State or regional significance must not be granted unless the consent authority has considered a conservation management plan prepared by an appropriately qualified person.

Applications for consent to development relating to heritage items classified by this plan as being of local significance must not be granted

unless the consent authority has considered a statement of heritage impact prepared by an appropriately qualified person, except where the consent authority is of the opinion that the proposed development constitutes extensive alterations or additions to the heritage items in which case consent must not be granted unless the consent authority has considered a conservation plan.

In this clause, a reference to an *appropriately qualified person* is to a person considered by the Council to be appropriately qualified.

**Note.** The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, Statements of Heritage Impact).

**80 Notice to Metropolitan Aboriginal Land Council and the Department of Environment and Conservation**

On receipt of an application for consent to development that is likely to have an impact on an Aboriginal site, Aboriginal place or place of Aboriginal cultural significance, the consent authority must notify the Metropolitan Aboriginal Land Council and take into consideration any comments received in response within 21 days after the notice is sent.

**81 Notice to Heritage Council**

Deleted.

**82 Development in the vicinity of heritage items**

Development in the vicinity of heritage items or heritage conservation areas is to complement the character of the heritage item or buildings of

heritage significance within that area in terms of its architectural style, scale, setback, siting, external materials, finishes, colours and setting. Significant views to and from heritage items or heritage conservation areas, are not to be adversely affected.

**83 Development of known or potential archaeological sites**

Before granting an application for consent to development on an archaeological site or a potential archaeological site (except if such development does not disturb below-ground relics and any above-ground relics would not be adversely affected), the consent authority must consider a heritage impact statement explaining how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site.