Part 6 Local provisions

6.1 Acid sulfate soils

(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

(2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

<table>
<thead>
<tr>
<th>Class of land</th>
<th>Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Any works.</td>
</tr>
<tr>
<td>2</td>
<td>Works below the natural ground surface. Works by which the watertable is likely to be lowered.</td>
</tr>
<tr>
<td>3</td>
<td>Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</td>
</tr>
<tr>
<td>4</td>
<td>Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.</td>
</tr>
<tr>
<td>5</td>
<td>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</td>
</tr>
</tbody>
</table>

(3) Development consent must not be granted under this clause for the carrying out of works unless—

(a) an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority, and

(b) the consent authority is satisfied that any disturbance of acid sulfate soils resulting from the works will be managed so as to minimise adverse impacts on natural waterbodies, wetlands, native vegetation, agriculture, fishing, aquaculture and urban and infrastructure activities.

(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if—

(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and
(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.

(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—

(a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,

(b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),

(c) minor work, being work that costs less than $20,000 (other than drainage work).

(6) Despite subclause (2), development consent is not required under this clause to carry out any works if—

(a) the works involve the disturbance of less than 1 tonne of soil, and

(b) the works are not likely to lower the watertable.

6.2 Earthworks

(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

(2) Development consent is required for earthworks unless—

(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or

(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.

(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

(b) the effect of the development on the likely future use or redevelopment of the land,

(c) the quality of the fill or the soil to be excavated, or both,

(d) the effect of the development on the existing and likely amenity and structural integrity of adjoining properties,

(e) the source of any fill material and the destination of any excavated material,
the likelihood of disturbing relics,

the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Note. The National Parks and Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.

6.3 Flood planning

(1) The objectives of this clause are as follows—

(a) to minimise the flood risk to life and property associated with the use of land,

(b) to allow development on land that is compatible with the land’s flood hazard, taking into account projected changes as a result of climate change,

(c) to avoid significant adverse impacts on flood behaviour and the environment.

(2) This clause applies to—

(a) land identified as “Flood planning area” on the Flood Planning Map, and

(b) other land at or below the flood planning level.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

(a) is compatible with the flood hazard of the land, and

(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and

(c) incorporates appropriate measures to manage risk to life from flood, and

(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and

(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

(4) A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.

(5) In this clause—

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.
6.4 Stormwater management

(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.

(2) This clause applies to all land in—
   (a) residential, business and industrial zones, and
   (b) Zone E3 Environmental Management and Zone E4 Environmental Living.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—
   (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
   (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and
   (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

6.5 Environmentally sensitive land—terrestrial biodiversity

(1) The objective of this clause is to maintain terrestrial biodiversity by—
   (a) protecting native fauna and flora, and
   (b) protecting the ecological processes necessary for their continued existence, and
   (c) encouraging the conservation and recovery of native fauna and flora and their habitats.

(2) This clause applies to land identified as “Environmentally Sensitive Land” on the Terrestrial Biodiversity Map.

(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider—
   (a) whether the development is likely to have—
      (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
      (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
      (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
      (iv) any adverse impact on the habitat elements providing connectivity on the land, and
   (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that—

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

6.6 Environmentally sensitive land—groundwater vulnerability

(1) The objectives of this clause are as follows—

(a) to maintain the hydrological functions of key groundwater systems,

(b) to protect vulnerable groundwater resources from depletion and contamination as a result of development.

(2) This clause applies to land identified as “Environmentally Sensitive Land” on the Groundwater Vulnerability Map.

(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider the following—

(a) the likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals),

(b) any adverse impacts the development may have on groundwater dependent ecosystems,

(c) the cumulative impact the development may have on groundwater (including impacts on nearby groundwater extraction for a potable water supply or stock water supply),

(d) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

6.7 Environmentally sensitive land—riparian land and watercourses

(1) The objective of this clause is to protect and maintain the following—
(a) water quality within watercourses,
(b) the stability of the bed and banks of watercourses,
(c) aquatic and riparian habitats,
(d) ecological processes within watercourses and riparian areas.

(2) This clause applies to land identified as “Environmentally Sensitive Land” on the Riparian Lands and Watercourses Map.

(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider—
(a) whether or not the development is likely to have any adverse impact on the following—
   (i) the water quality and flows within the watercourse,
   (ii) aquatic and riparian species, habitats and ecosystems of the watercourse,
   (iii) the stability of the bed and banks of the watercourse,
   (iv) the free passage of fish and other aquatic organisms within or along the watercourse,
   (v) any future rehabilitation of the watercourse and riparian areas, and
(b) whether or not the development is likely to increase water extraction from the watercourse,
   and
(c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that—
(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

6.8 Environmentally sensitive land—environmental and scenic qualities of natural landforms

(1) The objectives of this clause are to protect and enhance the environmental and scenic qualities of natural landforms, including rock outcrops, cliffs, beaches and rock platforms.

(2) This clause applies to all land identified as “Environmentally Sensitive Land” on the Natural Landforms Map.

(3) In determining whether to grant development consent for development on land to which this clause applies, the consent authority must consider whether the development is likely to have
any adverse impact on the environmental and scenic qualities of natural landforms.

(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development—

(a) is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

6.9 Limited development on foreshore area

(1) The objectives of this clause are as follows—

(a) to ensure that development on the foreshore area will not adversely impact on natural foreshore processes or affect the significance and amenity of the area,

(b) to maintain and improve public access to the intertidal area of waterfronts if that access will cause minimal adverse environmental impact,

(c) to avoid adverse ecological effects on waterways by minimising any adverse impact from development on water quality and, so far as is practicable, to improve the quality of urban run-off entering waterways,

(d) to protect and enhance significant natural features and vegetation on the foreshore area,

(e) to retain endemic vegetation along foreshore areas,

(f) to restore and revegetate foreshore areas to improve estuarine flora and fauna habitat,

(g) to minimise any adverse visual impact of development when viewed from adjacent land and waterways by using a design and materials that complement the natural landscape of the foreshore area,

(h) to minimise any adverse impact of development on the natural landform of the foreshore area and waterways by integrating the development with minimal change to the natural topography of the foreshore area,

(i) to achieve a balance between private development and the public use of waterways,

(j) to minimise the obstruction of water views from public land.

(2) Development consent must not be granted for development on the foreshore area except for the following—

(a) the alteration, extension or rebuilding of an existing dwelling wholly or partly on the foreshore area if the footprint of the extension or alteration will not extend any further forward of the foreshore building line than the footprint of the existing dwelling,

(b) the erection of a new dwelling on the foreshore area if there is no reasonable alternative that
would allow a new dwelling to be located outside of the foreshore area,

(c) development for the following purposes that does not significantly alter the shape, natural form or drainage of the foreshore area—

(i) boat sheds,
(ii) jetties,
(iii) landscaped areas,
(iv) sea retaining walls,
(v) slipways,
(vi) swimming pools (that are no higher than 300 millimetres above ground level),
(vii) water recreation structures,
(viii) waterway access stairs,
(ix) inclinators,

(d) the erection of a building on the foreshore area (other than a building referred to in paragraph (a), (b) or (c)), if the levels, depth or other exceptional features of the site make it appropriate to do so.

(3) Development consent must not be granted under this clause, unless the consent authority is satisfied that—

(a) the appearance of the development, from both the foreshore area and the adjacent waterway, will be compatible with the surrounding area, and

(b) the development will not cause environmental harm such as—

(i) pollution or siltation of the waterway, or

(ii) an adverse effect on surrounding uses, marine habitat, wetland areas or fauna and flora habitats, or

(iii) an adverse effect on drainage patterns, and

(c) the natural qualities of the foreshore area are retained or restored as far as practicable through the retention or reinstatement of natural levels and endemic vegetation, and

(d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and

(e) opportunities to provide continuous public access along the foreshore area and to the waterway will not be compromised, and

(f) any heritage significance of the foreshore area on which the development is to be carried out and of surrounding land will be maintained, and
in the case of development for the alteration, extension or rebuilding of an existing building (or the erection of a new building) wholly or partly in the foreshore area, the alteration, rebuilding or new building will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and

in the case of the erection of a new dwelling, the dwelling will not be erected further forward of the foreshore building line than any existing dwelling on the land, and

it has considered sea level rise or change of flooding patterns as a result of climate change.

In deciding whether to grant development consent for development on the foreshore area, the consent authority must consider whether and to what extent the development would facilitate the following—

(a) continuous public access to and along the foreshore area through or adjacent to the proposed development,

(b) public access to link with existing or proposed open space,

(c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,

(d) public access to be located above the mean high water mark,

(e) reinforcement of the foreshore character and respect for existing environmental conditions,

(f) management of any rise in sea level or change of flooding patterns as a result of climate change.

6.10 Development on the foreshores of Port Hacking, Georges River, Woronora River and Port Botany

The objectives of this clause are as follows—

(a) to provide for the protection of the foreshore environment of the Georges River, Woronora River, Port Botany and those areas of Port Hacking that are not part of the coastal zone for the benefit of both present and future generations,

(b) to protect, enhance, maintain and restore the foreshore environment, its associated ecosystems, ecological processes and biological diversity and its water quality,

(c) to protect and preserve the natural, cultural, recreational and economic attributes of the foreshores,

(d) to provide opportunities for public pedestrian access to and along the foreshores,

(e) to recognise and accommodate ecological processes and climate change,

(f) to protect amenity and scenic quality,

(g) to protect and preserve rock platforms, beach environments and beach amenity,

(h) to protect and preserve native foreshore vegetation,
(i) to protect and preserve the aquatic environment,

(j) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area,

(k) to ensure that decisions in relation to development involve consideration of the broader and cumulative adverse impacts of the development on the catchment.

(2) This clause applies to land identified as “Foreshore” on the Foreshores of Port Hacking, Georges River, Woronora River and Botany Bay Map.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following—

(a) existing public access to and along the foreshore for pedestrians (including persons with a disability) with a view to—

   (i) maintaining existing public access and, where possible, improving that access, and
   
   (ii) identifying opportunities for new public access,

(b) the suitability of the development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account—

   (i) the type of development concerned and any associated land uses or activities (including compatibility of any land-based and water-based activities), and
   
   (ii) the location, and
   
   (iii) the bulk, scale, size and overall built form design of any building or work involved,

(c) the impact of the development on the amenity of the foreshore, including—

   (i) any significant overshadowing of the foreshore, and
   
   (ii) any loss of views from a public place to the foreshore,

(d) how the visual amenity and scenic qualities of the foreshores can be protected,

(e) how biodiversity and ecosystems, including the following, can be conserved—

   (i) native vegetation and existing wildlife corridors,
   
   (ii) rock platforms,
   
   (iii) water quality of waterbodies,
   
   (iv) native fauna and native flora, and their habitats,

(f) the effect of ecological processes and ecological hazards and potential impacts, including sea level rise—

   (i) on the development, and
   
   (ii) arising from the development,
(g) the cumulative impacts of the development and other development on the catchment.

6.11 Development for dwelling houses in Zone E2 and fronting the Woronora River

(1) This clause applies to the following land—

(a) 53 Woronora River Frontage, Bangor, being Lot 21, DP 8754,
(b) 141 Woronora River Frontage, Bangor, being Lot 63, DP 8754,
(ba) 155–157 Woronora River Frontage, Bangor, being Lots 70 and 71, DP 8754,
(c) 177 Woronora River Frontage, Bangor, being Lot 77, DP 8754,
(d) 185 Woronora River Frontage, Bangor, being Lot 81, DP 8754,
(e) 197 Woronora River Frontage, Bangor, being Lot 87, DP 8754,
(f) 199–201 Woronora River Frontage, Bangor, being Lots 88 and 89, DP 8754,
(g) 305 Woronora River Frontage, Bangor, being Lot 134, DP 8755,
(h) 307 Woronora River Frontage, Bangor, being Lot 135, DP 8755,
(i) 361 Woronora River Frontage, Bangor, being Lot 157, DP 8755,
(j) 445 Woronora River Frontage, Bangor, being Lot 198, DP 8755,
(k) 70–72 Tirto St, Bangor (also known as 487–489 Woronora River Frontage, Bangor), being Lots 219–220, DP 8755,
(l) 68 Tirto Street, Barden Ridge, being Part Lot 218, DP 18174.

(2) Despite any other provision of this Plan, development consent may be granted to the rebuilding, enlarging or alteration of a dwelling house on land to which this clause applies if the dwelling house existed when this Plan was made and will comply with the following—

(a) the height of the dwelling house must not exceed 7.2 metres to any point on the uppermost ceiling and 9 metres to the highest point on the roof, and

(b) the gross floor area of the dwelling house must not—

(i) increase by more than 30 square metres or 10% of the existing gross floor area (whichever is the lesser), or

(ii) exceed 300 square metres (inclusive of any ancillary buildings).

6.12 Airspace operations

(1) The objective of this clause is to protect airspace around airports.

(2) The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the Airports Act 1996 of the Commonwealth unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.
Note. Controlled activities include the construction or alteration of buildings or other structures that causes an intrusion into prescribed airspace (being generally airspace around airports). Controlled activities cannot be carried out without an approval granted under regulations made for the purposes of Division 4 of Part 12 of the Airports Act 1996 of the Commonwealth.

6.13 Development in areas subject to aircraft noise

(1) The objectives of this clause are as follows—

(a) to prevent certain noise sensitive developments from being located near the Sydney Airport and its flight paths,

(b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,

(c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.

(2) This clause applies to development that—

(a) is on land that—

(i) is near the Sydney Airport, and

(ii) is in an ANEF contour of 20 or greater, and

(b) the consent authority considers is likely to be adversely affected by aircraft noise.

(3) Despite any other provision of this Plan, development consent must not be granted to development for any of the following purposes—

(a) if the development will be on land that is in an ANEF contour of 25 or greater—boarding houses, centre-based child care facilities, dual occupancies, educational establishments, health consulting rooms, home businesses, home industries, medical centres, multi dwelling housing, respite day care centres, secondary dwellings, seniors housing, shop top housing and tourist and visitor accommodation,

(b) if the development will be on land that is in an ANEF contour of 30 or greater—community facilities, information and education facilities, places of public worship and recreation facilities (indoor),

(c) if the development will be on land that is in an ANEF contour of 35 or greater—businesses premises, food and drink premises, landscaping material supplies, neighbourhood shops, office premises, service stations, shops, timber yards, vehicle sales or hire premises and veterinary hospitals,

(d) if the development will be on land that is in an ANEF contour of 40 or greater—industrial retail outlets, industrial training facilities, light industries, self-storage units, vehicle body repair workshops, vehicle repair stations, warehouse or distribution centres and waste or resource management facilities.

(4) Despite subclause (3), development consent may be granted to development for any of the following purposes on land identified as “Kurnell Village” on the Activity Hazard Risk Map if the development is otherwise permitted by this Plan—
(a) centre-based child care facilities,
(b) dwelling houses,
(c) educational establishments,
(d) home businesses,
(e) home industries.

(5) Development consent must not be granted to development to which this clause applies unless the
consent authority is satisfied that the development—
(a) will not result in an increase in the number of dwellings or people affected by aircraft noise, and
(b) will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels
for Determination of Aircraft Noise Reduction) in AS 2021—2000 if—
(i) the development will be on land that is in an ANEF contour of 20 or greater and is for
the purposes of boarding houses, centre-based child care facilities, community
facilities, dual occupancies, dwelling houses, educational establishments, health
consulting rooms, home businesses, home industries, information and education
facilities, medical centres, multi dwelling housing, places of public worship, recreation
facilities (indoor), respite day care centres, secondary dwellings, seniors housing or
shop top housing, or
(ii) the development will be on land that is in an ANEF contour of 25 or greater and is for
the purposes of businesses premises, food and drink premises, neighbourhood shops,
office premises, service stations, shops, tourist and visitor accommodation, vehicle
sales or hire premises or veterinary hospitals, or
(iii) the development will be on land that is in an ANEF contour of 30 or greater and is for
the purposes of industrial retail outlets, industrial training facilities, light industries,
self-storage units, vehicle body repair workshops, vehicle repair stations, warehouse or
distribution centres or waste or resource management facilities.

(6) Nothing in this clause prevents development consent being granted for the repair, renovation,
minor 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.

(7) In this clause—

ANEF contour means a noise exposure contour shown as an ANEF contour on the Noise
Exposure Forecast Contour Map for the Sydney Airport prepared by the Department of the
Commonwealth responsible for airports.

and construction.
6.14 Landscaped areas in certain residential, business, industrial and environment protection zones

(1) The objectives of this clause are as follows—

(a) to ensure adequate opportunities exist for the retention or provision of vegetation that contributes to biodiversity and, in the case of trees, enhances the tree canopy of Sutherland Shire,

(b) to minimise urban run-off by maximising permeable areas on the sites of development,

(c) to ensure that the visual impact of development is minimised by appropriate landscaping and that the landscaping is maintained,

(d) to ensure that landscaping carried out in connection with development is sufficient to complement the scale of buildings, provide shade, screen parking areas and enhance workforce amenities.

(2) This clause applies to land in the following zones—

(a) Zone R2 Low Density Residential,

(b) Zone R3 Medium Density Residential,

(c) Zone R4 High Density Residential,

(d) Zone B5 Business Development,

(e) Zone B6 Enterprise Corridor,

(f) Zone B7 Business Park,

(g) Zone IN1 General Industrial,

(h) Zone IN2 Light Industrial,

(i) Zone IN3 Heavy Industrial,

(ia) Zone IN4 Working Waterfront,

(j) Zone E3 Environmental Management,

(k) Zone E4 Environmental Living.

(3) The minimum percentage of the site area on land to which this clause applies that is to consist of landscaped areas is the percentage shown on the Landscape Area Map in relation to that land.

(4) Despite subclause (3), development consent may be granted to development even though the percentage of the site consisting of landscaped areas is up to 5% less than the percentage shown on the Landscape Area Map in relation to the land if—

(a) there is a tree on the site to which clause 5.9 applies, and

(b) the consent authority is satisfied that—
(i) the tree makes an important contribution to the character or amenity of the locality, or

(ii) the species of tree is indigenous to the local area and listed as a threatened species under the Threatened Species Conservation Act 1995, or

(iii) the tree is important habitat for native fauna, or

(iv) the tree is important to the maintenance of biodiversity in the environment of the locality, or

(v) the tree is part of remnant bushland, or

(vi) the tree forms a notable visual element in the landscape of the locality, or

(vii) the tree is botanically unique in or rare to the local area (whether the species of tree is native or exotic).

(5) Despite subclause (3), the minimum percentage of the site area on land in Zone R2 Low Density Residential that is to consist of landscaped areas is 25% if the development is for the purposes of a centre-based child care facility.

(6) The minimum landscaped area for any lot of land to which this clause applies created by the subdivision of a lot containing a dual occupancy is the percentage shown on the Landscape Area Map in relation to the land.

(7) Subclause (6) does not apply to a subdivision of land under the Community Land Development Act 1989 or the Strata Schemes (Freehold Development) Act 1973.

(8) The following are taken to be excluded from the site area for the purposes of this clause—

(a) land on which the development is prohibited under this Plan (other than land on which the development is prohibited solely because of the application of clause 6.9),

(b) in the case of an internal lot—

(i) any access corridor to or from the lot, and

(ii) any right of way that traverses another lot.

Note. Among other things, clause 6.9 imposes certain restrictions on the erection of buildings on a foreshore area.

6.15 Energy efficiency and sustainable building techniques for commercial and industrial developments

(1) The objective of this clause is to ensure that development utilises building materials and construction techniques that are energy efficient, ecologically sustainable and maximise the useful lifecycle of buildings (while minimising the expenditure of energy in the manufacturing processes of the materials and during the construction phase).

(2) Development consent must not be granted to development for the purposes of commercial premises or industries, unless the consent authority has considered the following matters—

(a) the extent to which potential energy consumption may be reduced during the construction
and lifecycle of buildings,

(b) the extent to which sustainable natural resources, such as the sun and wind, will be used in the buildings to create naturally comfortable working environments,

(c) the extent to which building materials and construction techniques are ecologically sustainable and will—

(i) minimise the expenditure of energy (including, in the case of building materials, any expenditure of energy involved in their manufacture), and

(ii) maximise the useful lifecycle of buildings,

(d) the extent to which waste generated in any demolition of a building will be minimised,

(e) the extent to which waste generated during construction or during the lifecycle of buildings will be minimised through design and on-site waste management.

6.16 Urban design—general

(1) In deciding whether to grant development consent for any development, the consent authority must consider the following—

(a) the extent to which high quality design and development outcomes for the urban environment of Sutherland Shire have been attained, or will be attained, by the development,

(b) the extent to which any buildings are designed and will be constructed to—

(i) strengthen, enhance or integrate into the existing character of distinctive locations, neighbourhoods and streetscapes, and

(ii) contribute to the desired future character of the locality concerned,

(c) the extent to which recognition has been given to the public domain in the design of the development and the extent to which that design will facilitate improvements to the public domain,

(d) the extent to which the natural environment will be retained or enhanced by the development,

(e) the extent to which the development will respond to the natural landform of the site of the development,

(f) the extent to which the development will preserve, enhance or reinforce specific areas of high visual quality, ridgelines and landmark locations, including gateways, nodes, views and vistas,

(g) the principles for minimising crime risk set out in Part B of the Crime Prevention Guidelines and the extent to which the design of the proposed development applies those principles.

(2) In this clause, Crime Prevention Guidelines means the publication, Crime prevention and the assessment of development applications (ISBN 0 7347 0184 5), published by the NSW Department of Urban Affairs and Planning in 2001.
6.17 Urban design—residential accommodation

In deciding whether to grant development consent for development for the purposes of residential accommodation the consent authority must consider the following—

(a) the extent to which recognition has been given in the design of the development to the needs of the diverse and changing population of Sutherland Shire,

(b) the extent to which any adverse impacts of the development on adjoining land and open space, in terms of overshadowing, overlooking, views, privacy and visual intrusion, will be minimised,

(c) the extent to which the quality of the streetscape concerned will be improved by the development,

(d) the extent to which there will be private open space of a sufficient area and dimensions to enable proposed and required activities,

(e) the extent to which any adverse impacts of the development on adjoining land, in terms of size, bulk, height, scale and siting, will be minimised,

(f) the extent to which the residential accommodation concerned integrates with a well-designed landscaped setting,

(g) any opportunities for the provision of affordable housing.

6.18 Urban design—non-residential development in residential areas

(1) This clause applies to development, other than development for the purposes of residential accommodation and places of public worship, on land in the following zones—

(a) Zone R2 Low Density Residential,

(b) Zone R3 Medium Density residential,

(c) Zone R4 High Density Residential,

(d) Zone E3 Environmental Management,

(e) Zone E4 Environmental Living.

(2) Development consent must not be granted for development to which this clause applies unless the consent authority has considered the following—

(a) the extent to which any proposed non-residential accommodation and its design will integrate into the locality,

(b) the extent to which any such accommodation will respond to the local character, and relate to the scale, streetscape, setbacks and use of materials of other accommodation in the locality,

(c) the extent to which the residential amenity of the locality will be protected from detrimental traffic-related impacts and noise associated with the development.
6.19  Kurnell Peninsula

(1) The objective of this clause is to minimise risk to life or property in the event of an emergency on Kurnell Peninsula.

(2) This clause applies to land identified as “Refinery Risk Area” on the Activity Hazard Risk Map.

(3) Despite any other provisions of this Plan, development consent must not be granted for development for the following purposes on land to which this clause applies—

(a) dual occupancies,
(b) multi dwelling housing,
(c) secondary dwellings,
(d) seniors housing,
(e) shop top housing.

(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the contents of any reports relating to Kurnell Peninsula about the following matters that have been prepared by the Department and given to the Council—

(a) risk assessment,
(b) transportation,
(c) dangerous goods routes,
(d) guidelines on risk assessment criteria and methodology.

6.20  Nuclear research reactor at Lucas Heights Science and Technology Centre

(1) The objective of this clause is to minimise the risk to life or property near the nuclear research reactor at Lucas Heights Science and Technology Centre.

(2) This clause applies to land identified as “Nuclear Reactor Buffer Area” on the Activity Hazard Risk Map.

(3) Development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the following—

(a) any risk of radiation to life or property on the land,
(b) the extent to which residential densities on the land should be limited to minimise the risk to life or property,
(c) whether adequate measures will be in place to enable the safe evacuation of people from the land, and enable access to the land by emergency services, during an emergency,
(d) the intensity of the existing and proposed use of the land,
(e) the need to restrict vulnerable development on the land,
(f) any recommendations of the Australian Radiation Protection and Nuclear Safety Agency or Australian Nuclear Science and Technology Organisation relating to development on the land.

(4) In this clause—

**vulnerable development** means the erection or use of buildings whose occupants, in the opinion of the consent authority, are likely to need a high level of assistance during an emergency evacuation, including—

(a) a building used for a special fire protection purpose within the meaning of section 100B of the *Rural Fires Act 1997*, and

(b) accommodation for people with health and mobility problems, including seniors housing and medical centres with short term or long term accommodation.

### 6.21 Caringbah Medical Precinct

(1) The objectives of this clause are as follows—

(a) to create a mixed use development precinct that has health services facilities and residential accommodation located adjacent to the Sutherland Hospital and within walking distance of Caringbah Centre,

(b) to provide employment opportunities and promote economic growth for Sutherland Shire through synergies with the existing medical facilities of Sutherland and Kareena Hospitals,

(c) to be a catalyst for the revitalisation of Caringbah Centre,

(d) to ensure that there are high quality areas of private and public domain, with deep soil setbacks for the planting of substantial landscaping including large scale indigenous trees which will complement the scale of buildings up to 6 storeys, particularly in the building setbacks adjacent to Kingsway, Caringbah,

(e) to protect the amenity of the adjacent areas by providing a transition to adjacent 2-storey residential development, including reasonable setbacks from side and rear boundaries and the maintenance of a transitional scale of building height to Flide Street, Caringbah,

(f) to improve safety and traffic flow by limiting vehicle access from Kingsway, Caringbah, to redevelopment sites.

(2) This clause applies to the land known as Caringbah Medical Precinct and identified as “Area 7” on the *Height of Buildings Map* and the *Floor Space Ratio Map*.

(3) Despite any other provision of this Plan relating to the purposes for which development may be carried out, development consent may be granted for development for the purposes of a health services facility on land to which this clause applies.

(4) Despite clause 4.3 (2), the height of a building on land to which this clause applies may exceed the maximum height shown for the land on the *Height of Buildings Map* by an additional 11 metres if—

(a) the building contains a health services facility, and
(b) the building provides a transitional scale of building height to Flide Street, Caringbah, and

(c) the building setbacks are sufficient for the deep soil planting of substantial landscaping, including large scale indigenous trees on Kingsway frontage at Caringbah.

(5) Despite clause 4.4 (2), the maximum floor space ratio for a building on land to which this clause applies may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map by an additional 1.45:1 if—

(a) the building is on land identified as “Area 7” on the Floor Space Ratio Map, and

(b) the building contains a health services facility, and

(c) the building provides a transitional scale of building height to Flide Street, Caringbah, and

(d) the building setbacks are sufficient for the deep soil planting of substantial landscaping, including large scale indigenous trees on Kingsway frontage at Caringbah.

6.22 Location of sex services premises

(1) The objective of this clause is to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.

(2) In deciding whether to grant development consent to development for the purposes of sex services premises, the consent authority must consider the following—

(a) whether the premises will be located on land that adjoins, is directly opposite to or is separated only by a local road from land—

(i) in Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone RE1 Public Recreation, or

(ii) used for the purposes of a centre-based child care facility, a community facility, a school or a place of public worship,

(b) the impact of the development and its hours of operation on any place likely to be regularly frequented by children—

(i) that adjoins the development, or

(ii) that can be viewed from the development, or

(iii) from which a person can view the development.