

Ku-ring-gai



PLANNING SCHEME ORDINANCE

As amended to 14 February 2014

This document represents a compilation
of planning instruments. Reference should
be made to the specific government gazettes
as referenced in this document.



KU-RING-GAI PLANNING SCHEME ORDINANCE

**AS AMENDED TO
14 February 2014**

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REFERENCE SHOULD BE MADE TO THE SPECIFIC GOVERNMENT GAZETTES AS
REFERENCED IN THIS DOCUMENT**

PRICE - \$67.00

KU-RING-GAI PLANNING SCHEME ORDINANCE

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Introduction

What is the Ku-ring-gai Planning Scheme Ordinance ?

The Ku-ring-gai Planning Scheme Ordinance (also referred to as “the Ordinance” or KPSO) is an environmental planning instrument used to manage development and conservation in Ku-ring-gai. In the hierarchy of Council’s environmental planning documents it stands at the top, providing broad direction. Further detail is added to the Ordinance through other planning tools such as development control plans and Council codes and policies.

What are the components of this Ordinance ?

The Ordinance comprises this document (often described as “the written instrument”) and the Ku-ring-gai Planning Scheme “Map”.

What does the Ordinance do ?

The Ordinance aims to guide the future development and conservation of Ku-ring-gai.

The Planning Scheme Map classifies land into a number of “zones” (such as residential, business, open space, etc) and “reservations” (such as roads). The written instrument of the Ordinance describes how land in these zones and reservations may be used, developed and conserved. This is achieved through the Land Use Table, along with general clauses applying to different types of development as well as specific clauses that apply to selected sites.

The Ordinance defines many types of developments (such as service stations, shops, dwelling houses) to assist in more precisely classifying and grouping particular uses and activities in order to assist in guiding future development.

The Ordinance also identifies heritage items and details matters for consideration by Council if the owner wishes to develop the heritage item.

Can Council approve development that is prohibited by the Ordinance ?

No, Council cannot legally approve development that is prohibited by the Ordinance unless this is permitted by state legislation which over-rides the Ordinance.

Can the content of the Ordinance be varied or amended ?

Yes, it is possible to amend both the zoning and reservations shown on the Planning Scheme Map and the content of the written instrument of the Ordinance. However, this is a lengthy process that must be carried out in accordance with the requirements of the Environmental Planning & Assessment Act and involves consultation with the public and state government departments.

KU-RING-GAI PLANNING SCHEME ORDINANCE

1971 - No 246

ORDINANCE

LOCAL GOVERNMENT ACT 1919

(Published in Government Gazette No 108 of 1st October 1971)

(As amended to 14 February 2014)

PROCLAMATION

A R CUTLER, *Governor*

29 September 1971.

The Ku-ring-gai Planning Scheme Ordinance is hereby proclaimed as set out in the Schedule hereto. (106 L 1/5)

By His Excellency's Command,

P H MORTON

GOD SAVE THE QUEEN!

SCHEDULE

TOWN AND COUNTRY PLANNING - KU-RING-GAI PLANNING SCHEME ORDINANCE

Local Government Act 1919: Part XIIa

PART I

Preliminary

Citation

1. (1) This Ordinance may be cited as the "Ku-ring-gai Planning Scheme Ordinance".

- (2) The Planning Scheme prepared by the State Planning Authority of New South Wales in respect of all land within the Municipality of Ku-ring-gai, in pursuance of a direction of the Minister dated 21st September 1967, is embodied in this Ordinance.

*(Clause 1B added by Local Environmental Plan No 72
vide Government Gazette No 64 of 26 May 1989)*

*(Clause 1B amended by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 2 vide Government Gazette No 37 of 1 March 1991)*

Aims and objectives for residential zones

- 1B. The aims and objectives of this Ordinance in relation to land within Zones Nos 2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 2(g) and 2(h) are set out in Schedule 9.

Variation of County of Cumberland Planning Scheme

2. The planning scheme referred to in subclause (2) of clause 1 varies in certain respects the County of Cumberland Planning Scheme and incorporates all such provisions of that Scheme relating to land within the Municipality of Ku-ring-gai as are not inconsistent with the provisions of the Scheme so referred to.

Division into Parts

3. This Ordinance is divided into Parts as follows:

PART I. - **Preliminary** - cll. 1-6.

PART II. - **Reservation and Restriction on Use of Land** - ccl. 7-22.

PART III. - **Restrictions on Building and Use of Land** - cll. 23-25.

PART IV. - **Business Centre Provisions** - cll. 26-30D.

PART V. - **Consents** - cll. 31-38.

PART VI. - **General Amenity and Convenience** - cll. 39-42.

PART VII. - **Special Provisions** - cll. 43-61.

PART VIII. - **General** - cll. 62-72.

SCHEDULES.

Interpretation

4.(1) In this Ordinance, unless the context or subject matter otherwise indicates or requires -

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

“Aboriginal object” means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being Aboriginal extraction, and includes Aboriginal remains.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

“Aboriginal place of heritage significance” means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

Note. The term may include (but is not limited to) places that are declared under section 84 of the *National Parks and Wildlife Act 1974* to be Aboriginal places for the purposes of that Act.

"Airline terminal" means a building or place used for the assembly of passengers and goods prior to the transport of such passengers and goods either to or from an aerodrome.

*(New Definition added by Ku-ring-gai- (Heritage Conservation) Local Environmental Plan No 1
vide Government Gazette No 99 of 6 October 1989)*

"Alter", in relation to a heritage item or to a building or work within a conservation area, means -

- (a) to make structural changes to the outside of the heritage item, building or work;
or
- (b) to make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work, including the painting or unpainted surfaces, plastering, or other decoration of the outside of the heritage item, building or work, but not including the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Archaeological site" means a place that contains one or more relics.

"Appointed day" means the day upon which this Ordinance takes effect.

*(New Definition added by Local Environmental Plan No 66
vide Government Gazette No 110 of 1 July 1988)*

"Baby health centre" includes a building or place used for maternity and infant welfare provided clinics, conveniences, restrooms and the like for children and parents.

"Boarding-house" includes a house let in lodgings or a hostel but does not include a motel.

*(New Definition added by Local Environmental Plan No 171
vide Government Gazette No 56 of 7 May 1999)*

"Brothel" means premises habitually used for the purpose of prostitution or that are designed to be used for that purpose. Premises may constitute a brothel even though used by only one prostitute for the purpose of prostitution.

"Bulk store" means a building or place used or intended for use for the bulk storage of goods, where the goods stored or to be stored are not required for use in a shop or commercial premises on the same parcel of land or on adjoining land in the same ownership.

"Bus depot" means a building or place used for the servicing repair and garaging of buses and other vehicles used for the purposes of a bus transport undertaking.

"Bus station" means a building or place used as a terminal for the assembly and dispersal of passengers travelling by bus.

"Car repair station" means a building or place used or intended for use for the purpose of carrying out repairs to motor vehicles or agricultural machinery, not being -

- (a) body building;
- (b) panel beating which involves dismantling; or
- (c) spray painting other than of a touching-up character.

*(New Definition added by Local Environmental Plan No 37
vide Government Gazette No 18 of 31 January 1986)*

*(Definition omitted and new definition added by Local Environmental
Plan No 86 vide Government Gazette No 105 dated 28 August 1992)*

*(Definition deleted and new definition inserted by Local Environmental
Plan No 177 vide Government Gazette No 81 dated 16 July 1999)*

"Child care centre" means a building or place used for the purpose of supervising or caring for children which:

- (a) caters for 6 or more children under the age of 6, whether or not these children are related to the owner or operator of the child care centre;
- (b) may provide an educational function; and
- (c) may operate for the purpose of gain,

but does not include a building or place providing residential care for those children.

"Club" means a building used or intended for use by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic or other lawful purpose whether of the same or of a different kind and whether or not the whole or a part of such building is the premises of a club registered under Part X of the Liquor Act 1912.

*(New Definition added by Local Environmental Plan No 37
vide Government Gazette No 18 of 31 January 1986)*

"Cluster housing" means a residential development of three or more detached dwellings grouped together around private courtyards or landscaped open space on a single parcel of land.

"Commercial premises" means a building or place used or intended for use as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purpose elsewhere specifically defined in this clause or for a roadside stall.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 216
published LW 30 March 2012)*

"Community land" has the same meaning as in the *Local Government Act 1993*.

*(New Definition added by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1
vide Government Gazette No 99 of 6 October 1989)*

"Conservation area" means an area of heritage significance, being the land shown edged with a heavy black broken line and marked "Conservation Area" on the map marked "Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1" deposited in the office of the Council.

"Council" means the Council of the Municipality of Ku-ring-gai.

"County road" means -

- (a) any existing road indicated on the scheme map by a continuous red band on white between firm black lines;
- (b) any proposed road indicated on the scheme map by a broken red band between broken black lines; and
- (c) any proposed widening indicated on the scheme map by a broken red band between a firm black line and a broken black line.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Curtilage", in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, that contributes to its heritage significance.

*(New Definition added by Local Environmental Plan No 45
vide Government Gazette No 16 of 23 January 1987)*

*(Definition amended by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

"DCP 46" means Development Control Plan 46 (entitled "Exempt and Complying Development") as adopted by the Council on the 16th day of November 1999.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Demolish", in relation to a heritage item or an Aboriginal object, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item, Aboriginal object or building, work, relic or tree.

"Demolition", in relation to a building or work, means the damaging, defacing, destruction, pulling down or removal of the building or work, in whole or in part.

*(New Definition of “Development” added by Local Environmental Plan No 72
vide Government Gazette No 64 of 26 May 2000)*

*(Definition of “Development” omitted by Local Environmental Plan No180
vide Government Gazette No 168 of 22 December 2000)*

"Dual occupancy building" means development that may be carried out, with the consent of the Council, under clause 8 of Sydney Regional Environmental Plan No 12 - Dual Occupancy.

"Dwelling-house" means a building designed, constructed or adapted for use as a dwelling for a single family but does not include a flat.

*(New Definition added by Local Environmental Plan No 217
vide Government Gazette No 442 of 26 August 2011)*

"Emergency services facility" means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.

*(New Definition added by Local Environmental Plan No 217
vide Government Gazette No 442 of 26 August 2011)*

"Emergency services organisation" means any of the following:

- (a) Ambulance Service of New South Wales,
- (b) Fire and Rescue NSW,
- (c) NSW Rural Fire Service,
- (d) NSW Police Force,
- (e) State Emergency Service,
- (f) New South Wales Volunteer Rescue Association Incorporated,
- (g) New South Wales Mines Rescue Brigade established under the *Coal Industry Act 2001*,
- (h) An accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

"Educational establishment" means a building used or intended for use as a school, college, technical college, academy, lecture hall, gallery or museum, but does not include a building used or intended for use wholly or principally as an institution.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Excavation" means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

"Existing building" and **"existing work"** mean respectively a building or work erected, constructed or carried out before the appointed day, and a building or work erected, constructed or carried out in accordance with clause 64 of this Ordinance.

"Existing use" means a use of a building, work or land for the purpose for which it was used immediately before the appointed day and, in the case of a building or work erected, constructed or carried out in accordance with clause 64 of this Ordinance, the use of such building or work for the purpose for which the erection of the building or carrying out of the work, as the case may be, was approved.

"Extractive industry" means an industry or undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land upon which it is carried on.

"Extractive material" means sand, gravel, clay, turf, soil, rock, stone and similar substances.

"Flat" means a room or suite of rooms occupied or used or so designed, constructed or adapted as to be capable of being occupied or used as a separate domicile and includes a group dwelling but does not include a dwelling-house.

"Forestry" includes arboriculture, silviculture, forest protection, the cutting, dressing and preparation other than in a sawmill of wood and other forest products and the establishment of roading required for the removal of wood and forest products and for forest protection.

"Generating works" means a building or place used or intended for use for the purposes of making or generating gas, electricity, or other forms of energy.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Heritage conservation area" means an area of land of heritage significance:
 (a) shown on the Heritage Conservation Areas Map as a heritage conservation area, and
 (b) the location and nature of which is described in Part 3 of Schedule 7,
 and includes any heritage items situated on or within that area.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Heritage Conservation Areas Map" means the map marked "Ku-ring-gai Local Environmental Plan No 218 Heritage Conservation Areas Map" deposited in the office of the Council.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Heritage conservation management plan" means a document prepared in accordance with guidelines prepared by the Division of the Government Service responsible to the Minister administering the *Heritage Act 1977* that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Heritage impact statement" means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item or heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

*(Definition of "Group dwelling" omitted by Local Environmental
Plan No 87 vide Government Gazette No 78 of 23 June 1989)*

*(New Definition added by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 1 vide Government Gazette No 99 of 6 October 1989)*

*(Definition omitted and New Definition inserted by
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 2
vide Government Gazette No 37 of 1 March 1991)*

*(Definition omitted and new definition added by Local Environmental
Plan No 218 vide LW 5 July 2013)*

"Heritage item" means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 7.

Note: An inventory of heritage items is also available at the office of the Council.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Heritage management document" means:

- (a) a heritage conservation management plan, or
- (b) a heritage impact statement, or
- (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

*(New Definition added by Ku-ring-gai (Heritage Conservation)
Local Environmental Plan No 2 -
vide Government Gazette No 37 of 1 March 1991)*

"Heritage Map" means the map marked "Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1" deposited in the office of the Council, as amended by the maps marked as follows and so deposited:

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 2
Ku-ring-gai Local Environmental Plan No 102
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 3
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 4
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 5
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 6
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 7
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 8
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 9
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 11
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 13
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 14
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 17
Ku-ring-gai Local Environmental Plan No 174 - Sheet 2
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 22
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 26
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 32

*(New Definition added by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 1 vide Government Gazette No 99 of 6 October 1989)*

*(Definition omitted and new definition added by Local Environmental
Plan No 218 vide LW 5 July 2013)*

"Heritage significance" means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

*(Definition amended by Local Environmental Plan No 188
vide Government Gazette No 130 of 16 August 2002)*

"Home industry" means an industry carried on in a building, not being a dwelling-house or dwelling in a residential flat building, under the following circumstances -

- (a) the building does not occupy a floor space exceeding 27.9 square metres and is erected within the curtilage of the dwelling-house or residential flat building occupied by the person carrying on the industry or on adjoining land owned by such person;
- (b) the industry does not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise;
- (c) the industry does not involve exposure to view from any adjacent premises or from any public place of any unsightly matter; and

- (d) the industry does not require the provision of any essential service main of a greater capacity than that available in the locality.

*(New Definition added by Local Environmental Plan No 114
vide Government Gazette No 75 of 26 June 1992)*

*(Definition amended by Local Environmental Plan No 86
vide Government Gazette No 105 of 28 August 1992)*

*(Definition amended by Local Environmental Plan No 171
vide Government Gazette No 56 of 7 May 1999)*

"Home Occupation" means an occupation carried on in a dwelling-house, a dwelling in an attached dual occupancy or a dwelling in a residential flat building, by the permanent residents of the dwelling-house or such a dwelling which does not involve any of the following:

- (a) use of the dwelling or dwelling-house as a brothel.
- (b) the registration of the building under the Factories, Shops and Industries Act, 1962;
- (c) the employment of persons other than such residents;
- (d) the use of the premises for a Class A Veterinary Hospital or a Class B Veterinary Clinic within the meaning of the Veterinary Surgeons Act, 1986;
- (e) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise;
- (f) the display of goods, whether in a window or otherwise; or
- (g) the exhibition of any notice, advertisement or sign other than a notice or sign exhibited on such dwelling-house or such dwelling to indicate the name and occupation of the resident.

"Hospital" means a building used or intended for use as a hospital, sanatorium, health centre or dispensary, nursing home or home for aged, infirm, incurable or convalescent persons, whether public or private, and includes a shop or dispensary used in conjunction therewith, but does not include an institution.

"Hotel" means any premises specified in a publican's licence issued under the Liquor Act 1912.

"Industry" means -

- (a) any manufacturing process within the meaning of the Factories, Shops and Industries Act 1962;
- (b) the breaking up or dismantling of any goods or any article for trade or sale or gain or as ancillary to any business; or
- (c) the winning of extractive material.

"Institution" means a building used or intended for use wholly or principally for any of the following uses, namely as -

- (a) a home or other institution for mental defectives;
- (b) a mental hospital;
- (c) a penal or reformatory institution.

*(New Definition added by Local Environmental Plan No 45
vide Government Gazette No 16 of 23 January 1987)*

*(Definition of "Item of the environmental heritage" omitted by
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1
vide Government Gazette No 99 of 6 October 1989)*

"Junk yard" means land used for the collection, storage, abandonment or sale of scrap metals, waste paper, rags, bottles or other scrap materials or goods or used for the collecting, dismantling, storage, salvaging or abandonment of automobiles or other vehicles or machinery and for the sale of parts thereof.

*(New Definition added by Local Environmental Plan No 42
vide Government Gazette No 142 of 12 September 1986)*

"Licensed bowling club" means the club building associated with a bowling green and used in whole or in part for the purpose of a club registered under the Registered Clubs Act 1976.

*(New Definition added by Local Environmental Plan No 42
vide Government Gazette No 142 of 12 September 1986)*

"Licensed golf club" means the club building associated with a golf course and used in whole or in part for the purpose of a club registered under the Registered Clubs Act 1976.

"Liquid fuel depot" means a depot or place used or intended for use for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquids.

"Main road" means a main road within the meaning of the Main Roads Act, 1924.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Maintenance", in relation to a heritage item, Aboriginal object or Aboriginal place of heritage significance, or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care, but does not include the removal or disturbance of existing fabric, alterations (such as carrying out extensions or additions) or the introduction of new materials or technology.

"Mine" means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode, or reef whereon, wherein or whereby any operation is carried on for or in connection with the purpose of obtaining any metal or mineral by any mode or method, and any place adjoining on which any product of the mine is stacked, stored, crushed or otherwise treated, but does not include a quarry.

*(New Definition added by Local Environmental Plan No 37
vide Government Gazette No 18 of 31 January 1986)*

"Mixed business" means a shop trading principally in groceries, smallgoods and associated small items, having a gross floor area of not more than 150 square metres.

"Motel" means a building or buildings, not being an hotel, a boarding-house or a residential flat building, substantially used or intended for use for the overnight accommodation of travellers and the vehicles used by them whether or not the building or buildings are also used or intended for use in the provision of meals to such travellers or the general public.

"Motor showroom" means a building or place used or intended for use for the display or sale of motor vehicles and accessories.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Natural Resource Biodiversity Map" means the map marked "Ku-ring-gai Local Environmental Plan No 218 Natural Resource Biodiversity Map" deposited in the office of the Council.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Natural Resource Riparian Lands Map" means the map marked "Ku-ring-gai Local Environmental Plan No 218 Natural Resource Riparian Lands Map" deposited in the office of the Council.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 218
published LW 5 July 2013)*

"Nominated State heritage item" means a heritage item that:

- (a) has been identified as an item of State significance in a publicly exhibited heritage study adopted by the Council, and
- (b) the Council has, by notice in writing to the Heritage Council, nominated as an item of potential State significance.

(New Definition added by Local Environmental Plan No 42)

vide Government Gazette No 142 of 12 September 1986)

"Non-licensed club" means a building used by persons associated (whether or not as a body corporate) for some social, literary, political, sporting, athletic or other purpose, but does not include a building used in whole or in part for the purpose of a club registered under the Registered Clubs Act 1976.

"Offensive or hazardous industry" means an industry which, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.

*(New Definition added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

"Open Space Categories and Land Use Map" means the map marked "Ku-ring-gai Municipal Council Open Space Categories and Land use Map" deposited in the office of the Council, being a map that identifies parcels of land as natural areas or bushland.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 216
published LW 30 March 2012)*

"Operational land" has the same meaning as in the *Local Government Act 1993*.

"Place of assembly" means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment.

"Place of public worship" means a church, chapel or other place of public worship or religious instruction or place used for the purpose of religious training.

*(Definition omitted and new definition added by Local Environmental
Plan No 86 vide Government Gazette No 105 of 28 August 1992)*

"Professional consulting rooms" means a room or rooms forming part of, attached to or within the curtilage of a dwelling-house when:

- (a) the rooms are used by not more than 3 legally qualified medical practitioners for the practice of general medicine;
- (b) at least one of those medical practitioners resides permanently on the premises;
and
- (c) not more than 3 employees are employed in connection with the practice.

"Public building" means a building used or intended for use as offices or for administrative or other like purposes by the Crown, a statutory body, a council or by an organisation established for public purposes.

*(New Definition added by Ku-ring-gai Local Environmental Plan No 216
published LW 30 March 2012)*

"Public land" has the same meaning as in the *Local Government Act 1993*.

Note: The term is defined as follows:

public land means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the *Crown Lands Act 1989* applies, or
- (c) a common, or
- (d) land subject to the *Trustees of Schools or Arts Enabling Act 1902*, or
- (e) a regional park under the *National Parks and Wildlife Act 1974*.

"Public utility undertaking" means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act, that is to say -

- (a) railway, road transport, water transport, air transport, wharf or river undertakings;
- (b) undertaking for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services;

and any reference to a person carrying on any public utility undertaking shall be deemed to include a reference to a council, county council, Government Department, corporation, firm or authority carrying on such undertaking.

*(New Definition added by Local Environmental Plan No 42
vide Government Gazette No 142 of 12 September 1986)*

"Recreation area" means -

- (a) a children's playground;
- (b) an area used for sporting activities or sporting facilities;
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by -
 - (i) the council; or
 - (ii) a body of persons associated for the purpose of promoting the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or a showground.

"Refreshment room" means a restaurant, cafe, tea room, eating house or the like.

*(New Definitions added by Local Environmental Plan No 45
vide Government Gazette No 16 of 23 January 1987)*

*(Definition of "Relic" omitted and new Definition added by
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1
vide Government Gazette No 99 of 6 October 1989)*

*(Definition omitted and new definition added by Local Environmental
Plan No 218 vide LW 5 July 2013)*

"Relic" has the same meaning as in the *Heritage Act 1977*.

Note: The term is defined as follows:

relic means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance.

*(Definition of "Renovation" omitted by
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1
vide Government Gazette No 99 of 6 October 1989)*

"Residential flat building" means a building or group of buildings containing two or more flats.

*(Definition of "Residential flat building Class A" omitted by Local
Environmental Plan No 87 vide Government Gazette No 78 of 23 June 1989)*

*(Definition of "Residential flat building Class B" omitted by Local
Environmental Plan No 87 vide Government Gazette No 78 of 23 June 1989)*

"Road transport terminal" means a building or place used for the principal purpose of the bulk handling of goods for transport by road, including facilities for the loading and unloading of vehicles used to transport such goods and for the parking, servicing and repair of such vehicles.

"Sawmill" means a mill handling, cutting and processing timber from logs or baulks.

"Schedule" means a schedule to this Ordinance.

"Scheme" means the Ku-ring-gai Planning Scheme embodied in this Ordinance

*(New definition of Scheme Map added by Local Environmental Plan No 38
vide Government Gazette No 155 of 15 November 1985)*

*(New definition of Scheme Map added by
Ku-ring-gai (Consolidating) Local Environmental Plan No 1987
vide Government Gazette No 170 of 6 November 1987)*

"Scheme map" means the series of maps bound in a book the title sheet of which is marked "Ku-ring-gai Planning Scheme" and deposited in the office of the council, as amended by the maps marked as follows and so deposited:

Sheet 2 of Sydney Regional Environmental Plan No 7 - (Multi-Unit Housing Surplus Government Sites).

Sheet 3 of Sydney Regional Environmental Plan No 7 - (Multi-Unit Housing Surplus Government Sites).

Ku-ring-gai (Consolidating) Local Environmental Plan 1987

Ku-ring-gai Local Environmental Plan No 13

Ku-ring-gai Local Environmental Plan No 23

Ku-ring-gai Local Environmental Plan No 37

Ku-ring-gai Local Environmental Plan No 41

Ku-ring-gai Local Environmental Plan No 45

Ku-ring-gai Local Environmental Plan No 54

Ku-ring-gai Local Environmental Plan No 58

Ku-ring-gai Local Environmental Plan No 60

Ku-ring-gai Local Environmental Plan No 62

Ku-ring-gai Local Environmental Plan No 64

Ku-ring-gai Local Environmental Plan No 65

Ku-ring-gai Local Environmental Plan No 67

Ku-ring-gai Local Environmental Plan No 70

Ku-ring-gai Local Environmental Plan No 76

Ku-ring-gai Local Environmental Plan No 77

Ku-ring-gai Local Environmental Plan No 85

Ku-ring-gai Local Environmental Plan No 89

Ku-ring-gai Local Environmental Plan No 90

Ku-ring-gai Local Environmental Plan No 92

Ku-ring-gai Local Environmental Plan No 95

Ku-ring-gai Local Environmental Plan No 96

Ku-ring-gai Local Environmental Plan No 97

Sheets 1 and 2 of Ku-ring-gai Local Environmental Plan No 100 (Business Centres)

Ku-ring-gai Local Environmental Plan No 101

Ku-ring-gai Local Environmental Plan No 102

Ku-ring-gai Local Environmental Plan No 103

Ku-ring-gai Local Environmental Plan No 105

Ku-ring-gai Local Environmental Plan No 109

Ku-ring-gai Local Environmental Plan No 113

Ku-ring-gai Local Environmental Plan No 116

Ku-ring-gai Local Environmental Plan No 117

Ku-ring-gai Local Environmental Plan No 118

Ku-ring-gai Local Environmental Plan No 120

Ku-ring-gai Local Environmental Plan No 123

Ku-ring-gai Local Environmental Plan No 124

Ku-ring-gai Local Environmental Plan No 125

Ku-ring-gai Local Environmental Plan No 129
 Ku-ring-gai Local Environmental Plan No 130
 Ku-ring-gai Local Environmental Plan No 131
 Ku-ring-gai Local Environmental Plan No 134
 Ku-ring-gai Local Environmental Plan No 137
 Ku-ring-gai Local Environmental Plan No 139
 Ku-ring-gai Local Environmental Plan No 140
 Ku-ring-gai Local Environmental Plan No 146
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 Ku-ring-gai Local Environmental Plan No 160
 Ku-ring-gai Local Environmental Plan No 162
 Ku-ring-gai Local Environmental Plan No 169
 Ku-ring-gai Local Environmental Plan No 170
 Ku-ring-gai Local Environmental Plan No 172
 Ku-ring-gai Local Environmental Plan No 174 - Sheet 1
 Ku-ring-gai Local Environmental Plan No 179
 Ku-ring-gai Local Environmental Plan No 182
 Ku-ring-gai Local Environmental Plan No 190
 Ku-ring-gai Local Environmental Plan No 194 – Zoning Map
 Ku-ring-gai Local Environmental Plan No 197
 Ku-ring-gai Local Environmental Plan No 200 – Zoning Map
 Ku-ring-gai Local Environmental Plan No 202
 Ku-ring-gai Local Environmental Plan No 204
 Ku-ring-gai Local Environmental Plan No 207
 Ku-ring-gai Local Environmental Plan No 208
 Ku-ring-gai Local Environmental Plan No 216
 Ku-ring-gai Local Environmental Plan No 219 (Pymble Business Park) – Sheet 1
 Ku-ring-gai Local Environmental Plan No 221 – Land Zoning Map

"Service station" means a building or place used or intended for use for the fuelling of motor vehicles involving the sale by retail of petrol, oils and other petroleum products whether or not the building or place is also used or intended for use for any one or more of the following purposes -

- (a) the sale by retail of spare parts and accessories for motor vehicles;
- (b) washing and greasing of motor vehicles.
- (c) installation of accessories;
- (d) repairing and servicing of motor vehicles involving the use of hand tools provided that such repairing and servicing shall not include top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission or chassis restoration.

"Shop" means a building or place used or intended for use for the purpose of selling, exposing or offering for sale by retail goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purpose elsewhere specifically defined in this clause or for a roadside stall.

*(New definition added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

"Slope Map" means the map marked "Ku-ring-gai Slope Map" deposited in the office of the Council, being a map that identifies parcels of land that have a slope of 15% or more.

*(New definition added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

"Special Event" means a concert, circus, special public event, charity event, cultural event, sporting event, fair, market, or the like, conducted by the Council, an education establishment, a hospital, a nursing home, a community based non-profit organisation, a charity, or a community based sporting non-profit organisation.

"Stock and sale yard" means a building or place used or intended for the purpose of offering animals for sale and includes a public cattle market.

*(Definition omitted and new definition added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

"The Act" means the Environmental Planning and Assessment Act 1979.

*(New definition added by Local Environmental Plan No 100 (Business Centres)
vide Government Gazette No 102 of 21 August 1992)*

"Total floor space area" means the sum of the areas of each floor of the 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 1,400 millimetres above each floor level, but excluding:

- (a) columns, fin walls, sun control devices, awnings and any other elements, projections or works outside the general lines of the outer face of the external walls; and
- (b) lift towers, cooling towers, machinery and plant rooms, ancillary storage space and air-conditioning ducts; and
- (c) car parking needed to meet any requirements of the Council and any designated internal vehicular or pedestrian access thereto; and
- (d) space for the loading and unloading of goods; and
- (e) internal public arcades and thoroughfares, terraces and balconies with outer walls less than 1,400 millimetres high.

"Transport terminal" means a building or place used as an airline terminal, a road transport terminal, a bus station or a bus depot.

"Utility installation" means a building or work intended for use by a public utility undertaking but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

"Warehouse" means a building or place used or intended for use for the storage of goods, merchandise or materials pending their sale and distribution to persons engaged in the retail trade.

"Zone" means land referred to in Column I of the Table to clause 23 of this Ordinance and shown on the scheme map by distinctive colouring or edging or in some distinctive manner as referred to in such Column for the purpose of indicating the restrictions imposed by Part III of this Ordinance on the erection and use of buildings, the carrying out and use of works or the use of land in such zone.

*(Subclause 4(2) and 4(3) added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

- (2) Without limiting or restricting subclause (1) in any way, unless the subject matter otherwise indicates or requires, in this Ordinance the following words and phrases have the same meaning as they have in the Environmental Planning and Assessment Act 1979:

"accredited certifier"
 "advertised development"
 "advertisement"
 "advertising structure"
 "building"
 "Building Code of Australia"
 "building work"
 "certifying authority"
 "change of building use"
 "compliance certificate"
 "complying development"
 "complying development certificate"
 "consent authority"
 "designated development"
 "development"
 "development application"
 "development consent"
 "development standards"
 "exempt development"
 "integrated development"
 "local development"
 "occupation certificate"
 "principal certifying authority"
 "prohibited development"
 "subdivision certificate"
 "subdivision of land"
 "subdivision work"

- (3) Notes in this Ordinance do not form part of this Ordinance.

References to allotments

- 4A. In this Ordinance, a reference to an allotment of land shall be construed as including a reference to any lot of land.

Land to which scheme applies

5. This Ordinance applies to all land within the Municipality of Ku-ring-gai, as shown on the scheme map, with boundaries as indicated on such map.

*(Clause 5A added by Local Environmental Plan No 25
vide Government Gazette No 103 of 29 June 1984)*

*(Clause 5A amended by Local Environmental Plan No 48
vide Government Gazette No 88 of 30 May 1986)*

*(Clause 5A amended by Local Environmental Plan No 71
vide Government Gazette No 162 of 28 October 1988)*

*(Clause 5A amended by Local Environmental Plan No 79
vide Government Gazette No 73 of 16 June 1989)*

*(Clause 5A amended by Local Environmental Plan No 82
vide Government Gazette No 124 of 22 December 1989)*

*(Clause 5A amended by Local Environmental Plan No 102
vide Government Gazette No 86 of 31 May 1991)*

*(Clause 5A omitted by Local Environmental Plan No 100 (Business Centres)
vide Government Gazette No 102 of 21 August 1992)*

5A.

Responsible authorities

6. (1) In respect of the provisions of this Ordinance relating to -
- (a) the acquisition and transfer of land reserved under Division 2 or 3 of Part II for county open space, new county roads and widening of existing county roads;
 - (b) places of scientific or historic interest;
 - (c) the relocation or alteration of the route of any county road indicated on the scheme map;
 - (d) controlled access roads; and
 - (e) any matters in respect of which the Authority is expressly charged with any power, authority, duty or function;
- the Authority shall be the responsible authority and shall be charged with the functions of carrying into effect and enforcing such provisions.
- (2) The Council shall, subject to this Ordinance, be the responsible authority and shall be charged with the functions of carrying into effect and enforcing the provisions of this Ordinance relating to any power, authority, duty or function other than those enumerated in subclause (1) of this clause.

* * * * *

PART II

Reservation and Restriction on Use of Land

Division 1

Application of Part

7. This part shall apply to all land shown on the scheme map in the following manner, viz:

All land coloured light green with red edging with the letter "C" in red superimposed thereon;

All land coloured yellow with green edging with scarlet lettering super-imposed thereon;

All land coloured light green;

All land coloured grey between broken black lines and all land coloured grey between a firm black line and a broken black line;

All land shown by a broken red band between a firm black line and a broken black line and by a broken red band between broken black lines.

Definitions

8. In this Part, unless the context or subject matter otherwise indicates or requires -

" **Built-up land**" means all land other than vacant land;

"**Vacant land**" means land upon which immediately before the appointed day there were no buildings or upon which the only buildings were fences, greenhouses, conservatories, garages, summer-houses, private boathouses, fuel sheds, tool-houses, cycle sheds, aviaries, milking bails, haysheds, stables, fowl-houses, pig sties, barns or the like.

Division 2

Reservation of Land

9. The several pieces of land specified in Column 1 of the Table to this clause are reserved for the purposes set out opposite such land in Column 2 of the Table.

T A B L E

Column 1	Column 2
Indication on scheme map of land reserved.	Purposes for which land is reserved.
All land coloured light green with red edging with the letter "C" in red superimposed thereon.	County Open Space
All land coloured yellow with green edging with scarlet lettering superimposed thereon.	Special use - the particular purpose shown by scarlet lettering on the scheme map.
All land coloured light green.	Parks and recreation.
All land coloured grey between broken black lines and all land coloured grey between a firm black line and a broken black line.	New local roads and widening of existing local roads

Buildings, etc, not to be erected on reserved land without consent

10. (1) Except as provided in subclause (2) of this clause a person shall not on land reserved under this Division erect a building or carry out or alter a work of a permanent character or make or alter a permanent excavation other than a building or a permanent work or a permanent excavation required for or incidental to the purpose for which the land is so reserved.
- (2) Where it appears to the responsible authority that the purpose for which the land is reserved under this Division cannot be carried into effect within a reasonable time after the appointed day the owner of such land may with the consent of the responsible authority erect a building or carry out or alter a work of a permanent character or make or alter a permanent excavation.

An approval shall not be granted under this subclause in relation to land reserved for special use, except with the consent of the Authority.

- (3) Any such consent shall be subject to such conditions including conditions with respect to the removal or alteration of the building, work or excavation, or any such alteration of a work or excavation, or the reinstatement of the land or the removal of any waste material or refuse, with or without payment of compensation, as the responsible authority thinks fit.
- (4) Nothing in this clause shall operate to prohibit the erection of a fence on any land reserved under this Division or the erection or construction with the consent of the responsible authority, on such land of any essential utility installation.

Division 3

Application of Division

- 11. This Division shall apply only to vacant land and the expression "land" where used in this Division means vacant land.

Reservation of land

- 12. The several pieces of land specified in Column 1 of the Table to this clause are reserved for the purposes set out opposite such land in Column 2 of the Table.

T A B L E

Column 1	Column 2
Indication on scheme map of land reserved.	Purposes for which land is reserved.
All land shown by a broken red band between a firm black line and a broken black line and by a broken red band between broken black lines.	New county roads and widening of existing county roads.

Buildings, etc, not to be erected on reserved land without consent

- 13. (1) Except as provided in subclause (2) of this clause a person shall not on land reserved under this Division erect a building or carry out or alter a work of a permanent character or make or alter a permanent excavation other than a building or a permanent work or a permanent excavation required for or incidental to the purpose for which the land is so reserved.

- (2) Where it appears to the responsible authority that the purpose for which the land is reserved under this Division cannot be carried into effect within a reasonable time after the appointed day the owner of such land may with the consent of the responsible authority and of the Commissioner for Main Roads erect a building or carry out or alter a work of a permanent character or make or alter a permanent excavation.
- (3) Any such consent shall be subject to such conditions with respect to the removal or alteration of the building, work or excavation or any such alteration of a work or excavation or the reinstatement of the land or the removal of any waste material or refuse, with or without payment of compensation, as the responsible authority thinks fit, and to such conditions as the Commissioner for Main Roads requires to be imposed.
- (4) Nothing in this clause shall operate to prohibit the erection of a fence on any land reserved under this Division.

Division 4

Application of Division

- 14. This Division shall apply only to land which is built-up land and the expression "land" where used in this Division means built-up land.

Built-up land on proposed routes of roads

- 15. (1) This clause shall apply only to the following land, namely, all land shown on the scheme map by a broken red band between a firm black line and a broken black line and by a broken red band between broken black lines.
- (2) Land shall not be used without the consent of the responsible authority for any purpose other than the purpose for which the land was used immediately before the appointed day.
- (3) The erection of a building shall not be undertaken without the consent of the responsible authority.

Division 5

Application of Division

- 16. This Division shall apply both to vacant land and built-up land.

Restriction on use of land

- 17. (1) Land which is reserved under Division 2 or 3 of this Part shall not be used without the consent of the responsible authority for any purpose other than the purpose for which it was used immediately before 12 July 1946.

- (2) Nothing in subclause (1) of this clause shall prevent the use of land for a purpose other than the purpose for which it was used immediately before 12 July 1946, where consent to the firstmentioned use has been granted either in accordance with the terms of the Town and Country Planning (General Interim Development) Ordinance or Division 7 of Part XIIa of the Act or the County of Cumberland Planning Scheme Ordinance.

Acquisition of land

- 18. (1) The owner of any land reserved under Division 2 or 3 of this Part upon which the erection of any building or the carrying out or alteration of any work of a permanent character or the making or alteration of any permanent excavation is prohibited except for or incidental to a purpose for which the land is so reserved, or the owner of any land so reserved, in respect of which the responsible authority has refused its consent pursuant to subclause (2) of clause 10, subclause (2) of clause 13 or clause 17 of this Ordinance, may, by notice in writing, require the responsible authority to acquire such land.
- (2) Upon receipt of such notice the responsible authority shall acquire the land to which the notice relates.

Transfer of land

- 19. (1) The Authority may and upon such terms and conditions as may be agreed transfer any land which has been acquired by it in pursuance of clause 18 to the Commissioner for Main Roads.
- (2) The Authority may, with the consent of the Council or of any public body or trustees, as the case may be, place any land acquired by the Authority, whether under this Scheme or under the County of Cumberland Planning Scheme, for county open space, parks and recreation areas, foreshore reservations or places of natural beauty or advantage, under the care, control and management of such Council, public body or trustees.

Schedule of proposals

- 20. (1) The Commissioner for Main Roads may from time to time notify the Authority of a schedule of proposals in relation to proposed county roads in conformity with this scheme which the Commissioner, pursuant to any powers, authorities, duties and functions conferred by any Act, proposes to carry into effect in relation to such land.
- (2) Where any such notice has been given the Authority shall not thereafter incur any expense in respect of the acquisition of, or otherwise in relation to, the land which is required in connection with such proposals and shall upon such terms and conditions as may be agreed transfer to the Commissioner any land which has been acquired by the Authority in connection with such proposals before the receipt of such notice.

Relocation of county roads

21. (1) The Authority may, with the concurrence of the Commissioner for Main Roads, relocate or alter the route of any county road indicated on the scheme map.
- (2) The Commissioner for Main Roads may make application to the Authority for the relocation or alteration of the route of any such road and shall indicate the relocation or alteration required.
- (3) Where the Authority proposes to relocate or alter the route of any county road the Authority shall -
- (a) notify brief particulars in the Gazette and in a newspaper circulating in the locality; and
 - (b) in respect of each parcel of land affected by such relocation or alteration, notify the person who is shown in the rate book of the Council as the owner of the land, of such proposal by registered letter addressed to the last known address of that person as recorded in the rate book.

Any such notification shall state that full particulars of the proposed relocation or alteration together with a plan or aerial photograph showing the land affected thereby, may be inspected at such places as are designated and that objections against the proposal may be made in writing to the Authority on or before the date specified in the notice by any person who has an estate or interest in the land.

- (4) On or before the date so specified any such person may make objection in writing to the Authority against the proposal to relocate or alter the route of any county road.
- (5) The Authority shall consider any such objection and after making any adjustments which may be considered desirable and which are concurred in by the Commissioner for Main Roads may with the approval of the Governor relocate or alter the route of the county road.
- (6) Where the route of a county road has been relocated or altered under the preceding provisions of this clause, the Authority shall cause to be prepared three copies of a plan showing such relocation or alteration and the land which is required for the purposes of the county road as so relocated or altered. The plan shall also indicate any land which is no longer required for the purpose of the county road as relocated or altered and the zones in which such land shall be included or the purposes for which such land shall be reserved in accordance with this Part.

Such copies of the plan shall be sealed with the seal of the Authority and thereafter one plan shall be attached to the scheme map, one shall be forwarded to the Council and the other shall be forwarded to the Commissioner for Main Roads. The Authority shall cause to be published in the Gazette and in a newspaper circulating in the locality notification that the route of the county road has been relocated or altered and that the copies of the plan have been forwarded to the authorities referred to in this subclause.

- (7) Upon publication of the notification referred to in subclause (6) of this clause the provisions of Divisions 3 and 4 of this Part relating to county roads shall thereupon -
- (a) cease to apply to the land shown on the plan referred to in such notification as being no longer required for the purpose of the county road as relocated or altered and such land shall be deemed to be included in the zone indicated on such plan or reserved in accordance with the provisions of this Part and the provisions of this Ordinance relating to land included in a zone or so reserved shall apply to such land; and
 - (b) apply to any land shown on the plan referred to in such notification as being required for the purposes of the county road as relocated or altered in all respects and to the like extent as if such land were land to which this Part applies and the provisions of Division 3 or 4 of this Part shall apply thereto in the case of vacant land and built-up land respectively and such land shall be deemed to be no longer included in a zone or reserved for purposes other than county roads and the provisions of this Ordinance relating to land included in a zone or so reserved shall cease to apply to such land.

Relocation of local roads

22. The provisions of clause 21 shall, mutatis mutandis, apply to land shown on the scheme map grey between broken black lines and grey between a firm black line and a broken black line provided, however, that a reference in the said clause to "the Authority" shall be read and construed as a reference to "the Council" and the concurrence of the Commissioner for Main Roads shall not be necessary to the relocation or alteration of the route of any proposed road for which the land is reserved nor shall the Commissioner be entitled to make application for any such relocation or alteration.

* * * * *

PART III

Restrictions on Building and Use of Land

*(Clause 23 omitted and new Clause 23 added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

Development control table

23. Subject to the other provisions of this Ordinance, the following table describes in Column 1 how land within a particular zone is shown on the scheme map and opposite thereto in Columns 2,3 and 4 specifies for land within each zone the development which is:

- (a) Development that may be carried out without development consent (Column 2);

(Clause 23(b) amended vide Government Gazette No 33 of 5th March 1982)

- (b) development that may be carried out only with development consent (Column 3);
and
- (c) prohibited development (Column 4).

37
TABLE

(Column III deletion vide Government Gazette No 33 of 5 March 1982)

*(Table deleted and new table added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

Column 1	Column 2	Column 3	Column 4
Zone and colour as indicated on scheme map.	Development which may be carried out without development consent.	Development that may be carried out only with development consent.	Prohibited development.
1. Non-urban. Nil.			
<i>(Column IV addition by Local Environmental Plan No 86 vide Government Gazette No 105 of 28 August 1992)</i>			
2. Residential (a) Residential "A" Light scarlet.	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 of DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: dwelling-houses; home occupations. Any other development not permitted by Column 2 or prohibited by Column 4.	Development for the purpose of: advertisements; advertising structures; boarding-houses; brothels; bulk stores; caravan parks; car repair stations; clubs; commercial premises; emergency services facilities; gas holders; generating works; hotels; industries; institutions; junk yards; liquid fuel depots; mines; motels; motor showrooms; refreshment rooms; residential flat buildings; roadside stalls; sawmills; service stations; shops; stock and sale yards; Transport terminals; warehouses.

38
TABLE – Continued

*(Column III deletion vide Government Gazette No 33 of 5 March 1982)
(Column IV addition by Local Environmental Plan No 86 vide Government Gazette No 105 of 28 August 1992)*

*(Table deleted and new table added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

Column 1	Column 2	Column 3	Column 4
Zone and colour as indicated on scheme map.	Development which may be carried out without development consent.	Development that may be carried out only with development consent.	Prohibited development.
(b) Residential “B” Light scarlet with dark red edging and lettered 2(b).	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 of DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: dwelling-houses; home occupations. Any other development not permitted by Column 2 or prohibited by Column 4.	Development for the purpose of: advertisements; advertising structures; boarding-houses; brothels; bulk stores; caravan parks; car repair stations; clubs; commercial premises; emergency services facilities; gas holders; generating works; hotels; industries; institutions; junk yards; liquid fuel depots; mines; motels; motor showrooms; refreshment rooms; residential flat buildings; roadside stalls; sawmills; service stations; shops; stock and sale yards; transport terminals; warehouses.
(c) Residential “C” Light scarlet with dark red edging and lettered 2(c).	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 of DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: dwelling-houses; home occupations. Any other development not permitted by Column 2 or prohibited by Column 4.	Development for the purpose of: advertisements; advertising structures; boarding-houses; brothels; bulk stores; caravan parks; car repair stations; clubs; commercial premises; emergency services facilities; gas holders; generating works; hotels; industries; institutions; junk yards; liquid fuel depots; mines; motels; motor showrooms; refreshment rooms; residential flat buildings; roadside stalls; sawmills; service stations; shops; stock and sale yards; transport terminals; warehouses.

39
TABLE - *Continued*

(New Zone No 2 (c1) and 2 (c2) added by Ku-ring-gai Local Environmental Plan No 194 vide Government Gazette No 92 of 28 May 2004)

Column 1	Column 2	Column 3	Column 4
Zone and colour as indicated on scheme map.	Development which may be carried out without development consent.	Development that may be carried out only with development consent.	Prohibited development.
(c1) Residential "C1" Light scarlet with dark red edging and lettered 2 (c1)	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 to DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: boarding-houses; child care centres; drainage; dwelling-houses; educational establishments; family flats; home occupations; hospitals; open space; places of public worship; professional consulting rooms; roads; utility installations (other than generating works or gas holders). Subdivision of land.	Any development other than that permitted by Column 2 or 3.
(c2) Residential "C2" Light scarlet with dark red edging and lettered 2 (c2)	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 to DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: apartment conversions; attached dual occupancies; boarding-houses; child care centres; detached dual occupancies; drainage; dwelling-houses; educational establishments; family flats; home occupations; hospitals; open space; places of public worship; professional consulting rooms; roads; utility installations (other than generating works or gas holders). Subdivision of land.	Any development other than that permitted by Column 2 or 3.

TABLE – *Continued*

(Column III deletion vide Government Gazette No 33 of 5 March 1982)
(Column IV addition by Local Environmental Plan No 86 vide Government Gazette No 105 of 28 August 1992)

*(Table deleted and new table added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

Column 1	Column 2	Column 3	Column 4
Zone and colour as indicated on scheme map.	Development which may be carried out without development consent.	Development that may be carried out only with development consent.	Prohibited development.
<p>(d) Residential “D</p> <p>Light scarlet with dark red edging and lettered 2(d).</p>	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 of DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: boarding-houses; clubs; drainage; dwelling-houses; educational establishments; home occupations; hospitals; motels; open space; places of assembly; places of public worship; professional consulting rooms; residential flat buildings; roads; utility installations other than generating works or gas holders.	Any development other than that permitted by Column 2 or 3.

TABLE – *Continued**(New Zone No 2 (d3) added by Ku-ring-gai Local Environmental Plan No 194 vide Government Gazette No 92 of 28 May 2004)*

Column 1	Column 2	Column 3	Column 4
Zone and colour as indicated on scheme map.	Development which may be carried out without development consent.	Development that may be carried out only with development consent.	Prohibited development.
(d3) Residential “D3” Light scarlet with dark red edging and lettered 2 (d3)	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 to DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: attached dual occupancies; boarding-houses; child care centre; detached dual occupancies; drainage; dwelling-houses; educational establishments; family flats; home occupations; hospitals; open space; places of public worship; professional consulting rooms; residential flat buildings; roads; townhouses; utility installations (other than generating works or gas holders); villas. Subdivision of land.	Any development other than that permitted by Column 2 or 3.

TABLE – Continued

(Column III deletion vide Government Gazette No 33 of 5 March 1982)
 (Column IV addition by Local Environmental Plan No 86 vide Government Gazette No 105 of 28 August 1992)

(Table deleted and new table added by Local Environmental Plan No 180
 vide Government Gazette No 168 of 22 December 2000)

Column 1	Column 2	Column 3	Column 4
Zone and colour as indicated on scheme map.	Development which may be carried out without development consent.	Development that may be carried out only with development consent.	Prohibited development.
(e) Residential “E Light scarlet with dark red edging and lettered 2(e).	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 of DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: boarding-houses; clubs; drainage; dwelling-houses; educational establishments; home occupations; hospitals; motels; open space; places of assembly; places of public worship; professional consulting rooms; residential flat buildings; roads; utility installations other than generating works or gas holders.	Any development other than that permitted by Column 2 or 3.
(f) Residential “F (Redevelopments) Light scarlet with dark red edging and lettered 2(f).	Exempt development referred to in clause 24(2) of this Ordinance and Schedule 1 of DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: drainage; dwelling-houses; home occupations; open space; professional consulting rooms; residential flat buildings; roads; utility installations other than generating works or gas holders.	Any development other than that permitted by Column 2 or 3..
(g) Residential “G Light scarlet with dark red edging and lettered 2(g).	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 of DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: dwelling-houses; home occupations.	Any development other than that permitted by Column 2 or 3.

TABLE - Continued

*(New zone added – Local Environmental Plan No 37 vide Government Gazette No 18 of 31 January 1986)
(Column IV addition by Local Environmental Plan No 86 vide Government Gazette No 105 of 28 August 1992)*

*(Table deleted and new table added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

Column 1	Column 2	Column 3	Column 4
Zone and colour as indicated on scheme map.	Development which may be carried out without development consent.	Development that may be carried out only with development consent.	Prohibited development.
(h) Residential “H” Light scarlet with dark red edging and lettered 2(h).	Exempt development referred to in clause 24(2) of this Ordinance and Schedule 1 of DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: boarding-houses; child care centres; clubs; cluster housing; drainage; dual occupancies; dwelling-houses; educational establishments; home occupations; hospitals; mixed businesses; open space; places of public worship; professional consulting rooms; residential flat buildings; roads; utility installations other than generating works or gas holders.	Any development other than that permitted by Column 2 or 3.

*(Zones No 3(a), 3(b), 3(c), 3(c1), 3(d) and 3(e) omitted by Local Environmental Plan No 100 (Business Centres)
vide Government Gazette No 102 of 21 August 1992)*

TABLE – Continued

(Column III deletion vide Government Gazette No 33 of 5 March 1982)
(Table deleted and new table added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)

Column 1	Column 2	Column 3	Column 4
Zone and colour as indicated on scheme map.	Development which may be carried out without development consent.	Development that may be carried out only with development consent.	Prohibited development.
4. Industry Nil.			
5. SPECIAL USES (a) Special Uses “A” Yellow.	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 of DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: utility installations other than generating works or gas holders; special events. The particular development indicated by scarlet lettering on the scheme map.	Any development other than that permitted by Column 2 or 3.

(New Zone 5(a1) added by Local Environmental Plan No 105 vide Government Gazette No 87 of 10 July 1992)

(ii) Special Uses “A1” Yellow with red edging.	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 of DCP 46	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: advertisements; advertising structures; bus depots; environmental studies centres; road safety education; special events.	Any development other than that permitted by Column 2 or 3.
(b) Special Uses “B” (Railways). Blue-purple.	Nil	Any development	Nil.

TABLE – *Continued*

(Column III deletion vide Government Gazette No 33 of 5 March 1982)

*(Table deleted and new table added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

Column 1	Column 2	Column 3	Column 4
Zone and colour as indicated on scheme map.	Development which may be carried out without development consent.	Development that may be carried out only with development consent.	Prohibited development.
<i>(Local Environmental Plan No 42 – Column II insertion, Column III deleted, Column IV amended and Column V alteration (“III” to “II”) vide Government Gazette No 142 of 12 September 1986)</i>			
6. OPEN SPACE (a) Recreation Existing Dark green.	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 of DCP 46. Landscaping, gardening and bushfire hazard reduction. Uses authorised under the <i>National Parks and Wildlife Act 1974</i> on so much of the land within this zone as is within a national park.	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: advertisements; advertising structures; agriculture; buildings for the purpose of landscaping, gardening or bushfire hazard reduction; caravan parks; drainage; emergency services facilities; forestry golf courses; licensed bowling clubs; licensed golf clubs; non-licensed clubs; racecourses; recreation areas; roads scout and guide halls; showgrounds; utility installations other than generating works or gas holders.	Any development other than that permitted by Column 2 or 3.

TABLE – *Continued*

(Column III deletion vide Government Gazette No 33 of 5 March 1982)
(Table deleted and new table added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)

Column 1	Column 2	Column 3	Column 4
Zone and colour as indicated on scheme map.	Development which may be carried out without development consent.	Development that may be carried out only with development consent.	Prohibited development.
(b) Recreation Private Dark green with yellow edging.	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 of DCP 46. Landscaping, gardening and bushfire hazard reduction.	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: advertisements; advertising structures; agriculture; buildings for the purpose of landscaping, gardening or bushfire hazard reduction; caravan parks; drainage; forestry golf courses; licensed bowling clubs; licensed golf clubs; minor outbuildings; non-licensed clubs; racecourses; recreation areas; roads scout and guide halls; showgrounds; special events; utility installations other than generating works or gas holders.	Any development other than that permitted by Column 2 or 3.
(c) Recreation Proposed Light green with dark green edging.	Exempt development referred to in clause 24 of this Ordinance and Schedule 1 of DCP 46.	Demolition of a building or work (being demolition that is not exempt development). Development (other than exempt development) for the purpose of: advertisements; advertising structures; bowling greens; drainage; golf courses; recreation areas utility installations other than generating works or gas holders.	Any development other than that permitted by Column 2 or 3.

*(Clause 24 deleted and new Clause 24 added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

What is exempt development?

24. (1) Development listed in Schedule 1 of DCP 46 is exempt development, subject to subclauses (2) and (3)
- (2) Development is exempt development only if:
- (a) it complies with any relevant development standards prescribed for the development by this Ordinance and DCP 46, and
 - (b) it complies with any deemed-to-satisfy provisions of the Building Code of Australia relevant to the development, and
 - (c) it does not require a tree to be pruned or removed, except where the prior approval of the Council to such pruning is obtained, and
 - (d) it does not obstruct drainage of the site on which it is carried out, and
 - (e) it does not restrict any vehicular or pedestrian access to or from the site, and
 - (f) it is carried out a least one metre from any easement or public sewer main and complies with the building over sewer requirements of Sydney Water Corporation applying to the land, and
 - (g) it does not cause interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste product, grit or oil or otherwise, and
 - (h) where it is carried out in a conservation area, it is carried out or proposed to be carried out behind the front building alignment of the principal or main building on the land, and
 - (i) the development is consistent with any plan of management approved under State Environmental Planning Policy No.44 – Koala Habitat Protection and with any recovery plan or threat abatement plan in force under the Threatened Species Conservation Act 1995 which affects the land, and
 - (j) the maximum built-upon area of the subject land does not exceed 50% of that land after the completion of any construction.
- (3) Development is not exempt development if it is carried out on land that:
- (a) is identified as an Aboriginal place, or is dedicated or reserved in any way, under the National Parks and Wildlife Act 1974, or
 - (b) is reserved or dedicated under the Crown Lands Act 1989 for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
 - (c) is or is the site of a heritage item listed in Part 1 or Part 2 of Schedule 7, or

- (d) is a natural area or is bushland (within the meaning of State Environmental Planning Policy No 19 – Bushland in Urban Areas) as identified in the natural category on the Open Space Categories and Land Use Map.

Note: Under Section 76 (3)(a) of the EP&A Act, exempt development cannot be carried out on land that:

- (a) is critical habitat (within the meaning of the Threatened Species Conservation Act 1995 or Part 7A of the Fisheries Management Act 1994), or
- (b) is, or is part of, a wilderness area (within the meaning of the Wilderness Act 1987).

*(Clause 25 deleted and new Clause 25 added by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

What is complying development ?

25. (1) Development listed in Schedule 2 of DCP 46 is complying if:
- (a) it is local development of a kind that can be carried out with consent on the land which it is proposed, and
 - (b) it is not an existing use, as defined in Section 106 of the Act, subject to subclauses (2) and (3).
- (2) Development is complying development only if:
- (a) it will satisfy all of the requirements listed in Section 2 of the Schedule 2 in DCP 46 for the development, and
 - (b) it complies with any deemed-to-satisfy provisions of the Building Code of Australia relevant to the development, and
 - (c) it is not carried out within any easement or public sewer main and complies with the building over sewer requirements of Sydney Water Corporation applying to the land, and
 - (d) a certificate of compliance has been obtained for the development, if required, from Sydney Water Corporation, and
 - (e) if it requires a tree to be pruned or removed, the prior approval of the Council to such pruning and removal has been obtained, and
 - (f) it does not contravene any restriction on the land imposed pursuant to any registered restriction, easement, covenant (positive or otherwise), or other instrument referred to in the Conveyancing Act 1919, and

- (g) the development is consistent with any plan of management approved under State Environmental Planning Policy No.44 – Koala Habitat Protection and with any recovery plan or threat abatement plan in force under the Threatened Species Conservation Act 1995 which affects the land, and
 - (h) where it is carried out in a conservation area, it is carried out or proposed to be carried out behind the front building alignment of the principal or main building on the land unless otherwise specified in DCP 46, and
 - (i) the maximum built-upon area of the subject land does not exceed 50% of that land after the completion of any construction.
- (3) Development is not complying development if it is carried out on land that:
- (a) has slopes greater than 15%, as identified in the Slope Map, or
 - (b) is identified by the Council as bushfire-prone, flood-labile or contaminated land, or land subject to subsidence, slip or erosion, or
 - (c) has previously been used as, or for the purposes of:
 - (i) intensive agricultural or horticultural activities (eg. market gardens), or
 - (ii) asbestos production and disposal, or
 - (iii) chemicals manufacture or significant storage of chemicals, or
 - (iv) defence works, or
 - (v) a dry cleaning establishment, or
 - (vi) engine works, or
 - (vii) gas works, or
 - (viii) iron and steel works, or
 - (ix) a landfill site or other waste treatment plant, or
 - (x) mining and extractive industry, or
 - (xi) oil production and storage, or
 - (xii) paint formulation and manufacture, or
 - (xiii) a power station, or
 - (xiv) a railway yard, or
 - (xv) a scrap yard, or
 - (xvi) a service station, or

(xvii) a timber preservation facility,

and in respect of which land a notice of completion of remediation work for the proposed use has not been given to the Council in accordance with State Environmental Planning Policy No.55 – Remediation of Land, or if such a notice is not required under that Policy in respect of the land concerned, a suitably qualified consultant, after undertaking a site contamination investigation in accordance with the “Contaminated Sites: Guidelines for Consultants Reporting on Contaminated Sites” published by the Environment Protection Authority in 1997 cannot provide a statement that the site is suitable for the proposed use, or

- (d) is identified as an Aboriginal place, or is dedicated or reserved in any way under the National Parks and Wildlife Act 1974, or
- (e) is reserved or dedicated under the Crown Lands Act 1989 for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
- (f) is State protected land within the meaning of the Native Vegetation Conservation Act 1997.

Note: Under Section 76A (6) of the EP&A Act, complying development cannot be carried out on land that:

- (a) is critical habitat (within the meaning of the Threatened Species Conservation Act 1995 or Part 7A of the Fisheries Management Act 1994), or
- (b) is, or is part of, a wilderness area (within the meaning of the Wilderness Act 1987), or
- (c) comprises, or on which there is, a heritage item:
 - (i) that is subject to an interim heritage order under the Heritage Act 1977, or that is listed on the State Heritage Register under that Act, or
 - (ii) that is identified as such an item in an environmental planning instrument, or

is identified as an environmentally sensitive area in the environmental planning instrument that makes provision for the complying development.

- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in Schedules 3 and 4 of DCP 46 as in force when the certificate is issued.

PART IIIA

Rail Corridor and St Ives Centre

*(Part IIIA inserted by Local Environmental Plan 194
vide Government Gazette No 92 of 28 May 2004)*

Division 1

Land to which Part IIIA applies

*(Clause 25A amended by Local Environmental Plan No 200
vide Government Gazette No 25 of 11 February 2005)*

25A Land to which this Part applies

This Part applies to the land in the vicinity of the North Shore Railway / Pacific Highway corridor and the St Ives Centre, as shown edged heavy red on the maps marked as follows held in the office of the Council:

Ku-ring-gai Local Environmental Plan No 194 – Zoning Map
Ku-ring-gai Local Environmental Plan No 200 – Zoning Map

Division 2

Definitions of terms used in Part 3A

*(Clause 25B amended by Local Environmental Plan No 200
vide Government Gazette No 25 of 11 February 2005)*

25B Definitions

In this Part and the matter relating to Zones Nos 2 (c1), 2 (c2) and 2 (d3) in the Table to clause 23:

access handle means a strip of land that provides access from an allotment to a street or other public land, whether or not the strip forms part of the allotment.

apartment conversion means the creation of a residential flat building containing not more than 4 dwellings within an existing dwelling-house, where the residential flat building maintains the appearance of a single house in a garden setting that is common to all dwellings in the building.

attached dual occupancy means dual occupancy where the two dwellings are within one building.

attached small dwelling means a dwelling that:

- (a) is attached to another larger dwelling as a result of its being added to, or being constructed wholly or partly within the built form of, an existing dwelling-house, and
- (b) has a total floor space area of not more than 50 square metres, and

- (c) together with the other dwelling, maintain the appearance of a single dwelling-house, and
- (d) does not have a separate land title.

building footprint means the total maximum extent of the two dimensional area of the plan view of a building including all levels, but excluding any part of the building below ground and minor ancillary structures such as barbeques, letterboxes and pergolas.

built upon area means the area of a site containing any built structure (whether covered or uncovered), any building, carport, terrace, pergola, hardsurface recreation area, swimming pool, tennis court, driveway, parking area or any like structure, but excluding minor landscape features.

Note. Any underground structure such as an on-site detention system or tank is not exempt from the built upon area calculation. Underground tanks should not be provided within areas suitable for landscaping and are encouraged to be provided, for example, under a driveway or car park, being an area which would normally be included as part of the built upon area.

deep soil landscaping means a part of a site area that:

- (a) is not occupied by any structure whatsoever, whether below or above the surface of the ground (except for paths up to 1 metre wide), and
- (b) is not used for car parking.

detached dual occupancy means two detached dwelling-houses on one allotment. Two dwellings connected by means only of a carport, breezeway, trellis or the like are taken to be detached dwelling-houses for the purposes of this definition.

Detached Dual Occupancy Map means the map marked “Ku-ring-gai Local Environmental Plan No 200 – Detached Dual Occupancy Map” held in the office of the Council.

dwelling means a room or suite or rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.

Dwelling-house Subdivisions Map means the map marked “Ku-ring-gai Local Environmental Plan No 200 – Dwelling-house Subdivisions Map” held in the office of the Council.

ecologically sustainable development has the same meaning as in the *Local Government Act 1993* and includes the following:

- (a) conservation of natural resources,
- (b) optimisation of the use of natural features,
- (c) optimisation of energy efficiency,
- (d) maintenance or improvement of air, water and soil quality,
- (e) reduction of car dependence, and
- (f) waste avoidance and minimisation, and cleaner production.

family flats means two dwellings on one site where one dwelling is an attached small dwelling.

floor space ratio of a building means the ratio of the gross floor area of the building to the site area.

gross floor area means 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 inner faces of the external enclosing walls, as measured at a height of 1,400 millimetres above each floor level, but excluding:

- (a) columns, fin walls, sun control devices, awnings and any other elements, projections or works outside the general lines of the outer face of the external walls, and
- (b) lift towers, cooling towers, machinery and plant rooms, and air conditioning and ventilation ducts, and
- (c) ancillary car parking and any associated internal designated vehicular and pedestrian access thereto, and
- (d) space for loading and unloading of goods, and
- (e) internal public areas, such as arcades, atria and thoroughfares, terraces and balconies with outer walls less than 1,400 millimetres high.

ground level means the natural level of the ground before the erection of any building or carrying out of any work.

manageable housing means housing in accordance with Class C – Adaptable Housing Features as set out in Australian Standard AS 4299 – 1995 – *Adaptable Housing* and must contain a bedroom, kitchen, dining area and bathroom on the ground floor or, where not on the ground floor, on a level to which lift access is provided.

multi-unit housing means three or more dwellings on one allotment, whether attached or not.

perimeter ceiling height means the vertical distance measured between ground level at any point and the topmost point of any ceiling where it meets, or where a horizontal projection of the ceiling would meet, any external or enclosing wall of the building.

residential flat building means a building containing three or more dwellings.

site area, in relation to proposed development, means the areas of land to which an application for consent to carry out the development relates, excluding the area of any access handle.

site coverage means the proportion of the building footprint to the site area, expressed as a percentage.

site slope means the proportion, expressed as a percentage, of the vertical difference in levels between the highest and lowest points of the ground level at the outer edge of the building footprint of proposed development to the horizontal distance between those same two points.

townhouse means a dwelling included in multi-unit housing, being a dwelling that has a separate entrance door accessible from an outside area and a private courtyard area at a level the same as, or similar to, the floor level of the dwelling.

villa means a townhouse which has only one storey.

Division 3

Aims and objectives

25C Aims and objectives of Part 3A

- (1) The aims of this Part are as follows:
 - (a) to encourage the protection and enhancement of the environmental and heritage qualities of Ku-ring-gai,
 - (b) to encourage orderly development of land and resources in Ku-ring-gai,
 - (c) to encourage environmental, economic, social and physical well-being so that Ku-ring-gai continues to be an enjoyable place to live in harmony with the environment.
- (2) The objectives of this Part are as follows:
 - (a) to provide increased housing choice,
 - (b) to encourage the protection of the natural environment of Ku-ring-gai, including biodiversity, the general tree canopy, natural watercourses, natural soil profiles, groundwater and topography and to reduce and mitigate adverse impacts of development on natural areas,
 - (c) to achieve high quality urban design and architectural design,
 - (d) to achieve development of Ku-ring-gai with regard to the principles of ecologically sustainable development,
 - (e) to ensure that development for the purpose of residential flat buildings on land within Zone No 2 (d3) has regard to its impact on any heritage items in the vicinity of that development,
 - (f) to encourage use of public transport, walking and cycling,
 - (g) to achieve a high level of residential amenity in building design for the occupants of buildings through sun access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision.

25D Consideration of residential zone objectives and impact on heritage

(1) Heads of consideration for consent authority

Consent must not be granted to any development of land to which this Part applies unless the consent authority has had regard to:

- (a) the objectives for residential zones set out in this clause, and
- (b) if the application is for consent for a residential flat building in Zone No 2 (d3), a statement describing the extent, if any, to which carrying out the proposed development would affect the heritage significance of any heritage item in the vicinity of the subject land.

(2) Objectives for residential zones

The objectives for residential zones are as follows:

- (a) to provide rear setbacks that ensure rear gardens are adjacent to rear gardens of other properties and that sufficient ground area is available for tall tree planting, consistent with the objectives of this Part,
- (b) to encourage the protection of existing trees within setback areas and to encourage the provision of sufficient viable deep soil landscaping and tall trees in rear and front gardens where new development is carried out,
- (c) to provide side setbacks that enable effective landscaping, tree planting between buildings, separation of buildings for privacy and views from the street to rear landscaping,
- (d) to minimise adverse impacts of car parking on landscape character,
- (e) to provide built upon area controls to protect the tree canopy of Ku-ring-gai, and to ensure particularly the provision of viable deep soil landscaping in order to maintain and improve the tree canopy in a sustainable way, so that tree canopy will be in scale with the built form,
- (f) to encourage the planting of tree species that are endemic to Ku-ring-gai,
- (g) to require on-site detention for stormwater for all new development and refurbishment of existing housing so as to avoid excessive run-off and adverse impacts on natural watercourses, and to preserve the long-term health of tall trees and promote natural absorption,
- (h) to encourage water sensitive urban design,
- (i) to encourage the protection and enhancement of open watercourses,
- (j) to have regard for bushfire hazard,
- (k) to ensure sunlight access to neighbours and to provide sunlight access to occupants of the new buildings,
- (l) to encourage safety and security of the public domain by facing windows and building entries to the street, where appropriate, and windows to open spaces in order to maximise casual surveillance opportunities,
- (m) to encourage safety and security of private development by requiring a high standard of building design and landscape design,
- (n) to encourage the provision of housing for seniors and people with disabilities by prescribing appropriate standards for new development,
- (o) to encourage the protection of the environmental qualities of the area by limiting the range of permissible residential uses and to allow a limited range of compatible non-residential uses in certain zones,
- (p) to allow attached dual occupancies only on compliance with defined criteria and only where they are consistent with or enhance the character of the streetscape and its setting,
- (q) to provide for waste management (including provision for garbage storage and collection) consistent with the objectives of this Part,
- (r) to ensure that adequate provision of storage is made for residential development,
- (s) to encourage the retention and expansion of bicycle infrastructure.

Division 4

Controls on development

*(Clause 25E amended by Local Environmental Plan No 200
vide Government Gazette No 25 of 11 February 2005)*

25E Dual occupancies and multi-unit housing on land to which this Part applies

- (1) Consent may be granted to development for the purpose of an attached dual occupancy, a detached dual occupancy, a residential flat building, three or more townhouses or villas or any other form of multi-unit housing on land to which this Part applies only if the land has an area of at least 1,200 square metres.
- (2) In addition, consent may be granted to development for the purpose of a detached dual occupancy only on land shown coloured yellow on the Detached Dual Occupancy Map.

25F Dual occupancies in Zone No 2 (c2)

- (1) The objectives of this clause are as follows:
 - (a) to give effect to the objectives for residential zones, while permitting detached and attached dual occupancy in limited circumstances,
 - (b) to nominate locations for detached dual occupancy,
 - (c) to ensure new attached dual occupancy has the appearance of a single dwelling in a single garden.
- (2) Consent may be granted to development for the purpose of a detached dual occupancy in Zone No 2 (c2) only if the total floor space ratio after the development has been carried out will be not greater than 0.4:1.
- (3) Consent may be granted to development for the purpose of an attached dual occupancy in Zone No 2 (c2), but only if:
 - (a) the site was occupied by a single dwelling-house on 28 March 2000 and when the development application is made, and
 - (b) the attached dual occupancy will be achieved by carrying out alterations or additions, or both, to the existing dwelling-house, and
 - (c) no more than 15% of the existing total floor space area of the existing dwelling-house will be demolished and the proposed development will result in not more than a 15% increase in the total floor space area over that of the existing dwelling-house as at 28 March 2000.

25G Apartment conversions in Zone No 2 (c2)

- (1) The objectives of this clause are:
 - (a) to encourage the retention of high quality large residential dwellings along the Pacific Highway, and
 - (b) to maintain the appearance of such dwellings as single houses set in landscaped grounds.

- (2) Consent may be granted to apartment conversions in Zone No 2 (c2) only if:
- (a) the site has a frontage to the Pacific Highway, and
 - (b) the site area is not less than 1,500 square metres, and
 - (c) the site was occupied by a single dwelling-house on 28 March 2000 and when the development application is made (except where an apartment conversion has already been carried out on the site pursuant to this clause), and
 - (d) no more than 15% of the existing total floor space area of the existing dwelling-house will be demolished and the proposed development will result in not more than a 15% increase in the total floor space area over that of the existing dwelling-house as at 28 March 2000, and
 - (e) the built upon area is not increased by more than 10% of that which exists or to more than 40% of the site area, whichever is the lesser, and
 - (f) on-site car parking can be provided in accordance with other requirements for development within Zone No 2 (c2) (being requirements relating to landscaped area, setbacks and protection of trees).
- (3) Strata subdivision of a lot containing a residential flat building that has been created pursuant to this clause may be carried out, but only with development consent.

25H Subdivision in the residential zones

*(Clause 25H amended by Local Environmental Plan No 200
vide Government Gazette No 25 of 11 February 2005)*

- (1) The objectives of this clause are as follows:
- (a) to set minimum lot areas that reflect previous minimum lot sizes,
 - (b) to set minimum lot areas and minimum street frontage lot widths that provide for development to occur in a garden setting by substantial setbacks to enable long-term sustainability of trees,
 - (c) to permit the subdivision of multi-unit housing,
 - (d) to provide for substantial common landscaped area to encourage good streetscape quality and areas for trees for each development.
- (2) Land to which this Part applies may be subdivided, but only with development consent.
- (3) If land to which this Part applies is subdivided:
- (a) lots created for the purpose of dwelling-houses are to each have at least the area specified as the "Minimum Lot Sizes" for the relevant land on the Dwelling-house Subdivisions Map, and
 - (b) the only land on which a detached dual occupancy is situated that may be subdivided to create separate titles for the two dwellings comprising the detached dual occupancy is shown coloured yellow on the Detached Dual Occupancy Map, and
 - (c) each of the allotments occupied by a dwelling that formed part of a detached dual occupancy is to have a site area of at least 550 square metres.

- (4) Where development listed in Column 1 of the Table to this subclause is permissible in a zone, a subdivision of land (excluding strata subdivision or a neighbourhood subdivision) to create a lot to be used for that development must not result in an allotment with a street frontage less than the minimum street frontage specified for the development in Column 2 of that Table:

Table

Minimum street frontages

Column 1	Column 2
Development for the purpose of:	Minimum street frontage width
Dwelling-houses	18 metres
Detached dual occupancy	18 metres
Attached dual occupancy	Not applicable
Residential flat buildings, townhouses and villas	23 metres

- (5) Without limiting the other provisions of this clause, consent may be given to subdivision of, or to create, battle-axe allotments.

Division 5

Further controls

25I Site requirements and development standards for multi-unit housing

(1) Heads of consideration for consent authority

Before granting consent to development for the purpose of multi-unit housing on land to which this Part applies, the consent authority must take into account the following:

- (a) the desirability to provide a high proportion of deep soil landscape to the site area,
- (b) the impact of any overshadowing, and any loss of privacy and loss of outlook, likely to be caused by the proposed development,
- (c) the desirability to achieve an appropriate separation between buildings and site boundaries and landscaped corridors along rear fence lines,
- (d) the environmental features that are characteristic of the zone in which the site is situated by requiring sufficient space on-site for effective landscaping,
- (e) the desirability of adequate landscaping so that the built form does not dominate the landscape,
- (f) how the principles of water cycle management can be applied to limit the impacts of runoff and stormwater flows off site.

(2) Minimum standards for deep soil landscaping

The following standards relating to deep soil landscaping apply to multi-unit housing:

- (a) deep soil landscaping with a minimum width of 2 metres is to be provided on the site area,
- (b) a site with an area of less than 1,800 square metres is to have deep soil landscaping for at least 40% of the site area,
- (c) a site with an area of 1,800 square metres or more is to have deep soil landscaping for at least 50% of the site area.

(3) Minimum street frontages

The standards for street frontages set out in the Table to this subclause apply to a site used for the purpose of multi-unit housing:

Table

Minimum street frontages

Site area	Minimum street frontage
1,800 square metres or more	30 metres
1,200 square metres or more but less than 1,800 square metres	23 metres

(4) Multi-unit housing on smaller sites

Despite clause 25E, multi-unit housing may be carried out within Zone No 2 (d3) on a site that has a site area of less than 1,200 square metres, or a street frontage of less than 23 metres, if the proposed development complies with all other requirements of this Ordinance.

(5) Maximum number of storeys

Buildings on land to which this Part applies are not to have more storeys than allowed by the Table to this subclause.

Table

Maximum number of storeys

Site area	Maximum number of storeys
Less than 1,800m ²	3
1,800m ² or more but less than 2,400m ²	4
2,400m ² or more	5

(6) Maximum site coverage

Buildings of a kind described below are not to occupy a greater percentage of the site area than is specified below for the kind of buildings. If a site is comprised of land in Zone No 2 (d3) and other land, the other land is not to be included in calculating site area.

Residential flat buildings – 35%,

Townhouses – 40%,

Villas – 50%,

Combination of townhouses and villas – 50%.

(7) Limit on floor area of top storey

In Zone No 2 (d3), where the maximum number of storeys permitted is attained, then the floor area of the top storey of a residential flat building of 3 storeys or more is not to exceed 60% of the total floor area of the storey immediately below it.

(8) Maximum number of storeys and ceiling height

Subject to subclause (5) and clause 25K, buildings on land to which this Part applies are not to have:

- (a) more storeys than the maximum number of storeys specified in Column 2 of the Table to this subclause, or
- (b) given the number of storeys in the building, a perimeter ceiling height greater than that specified in Column 3 of that Table.

Table

Maximum number of storeys and ceiling height

Column 1	Column 2	Column 3	
Zone	Maximum number of storeys	Calculation of maximum perimeter ceiling height	
	Number of storeys in a building (not including top storey with floor area reduced because of subclause (7) or attics, where applicable)	Number of storeys in building (not including top storey with floor area reduced because of subclause (7) or attics, where applicable)	Maximum perimeter ceiling height of building (not including top storey with floor area reduced because of subclause (7) or attics, where applicable)
2 (c1) and 2 (c2)	2	1	4.5 metres
		2	7.2 metres
2 (d3)	4	1	4.5 metres
		2	7.2 metres
		3	10.3 metres
		4	13.4 metres

- (9) Any storey which is used exclusively for car parking, storage or plant, or a combination of them, in accordance with the requirements of this Ordinance and no part of which (including any wall or ceiling which encloses or defines the storey) is more than 1.2 metres above ground level, is not to be counted as a storey for the purposes of the Table to subclause (8).

(10) Excavation near Epping-Chatswood Rail Tunnel

Before consent is granted for any substantial excavation of a site to accommodate basement levels in proximity to the Epping-Chatswood Rail Tunnel, the consent authority must consider an assessment of the likely effect of the excavation, and of the rail tunnel and its use, on:

- the proposed excavation, and
- the likely subsequent use of the land on which the excavation is proposed.

25J Car parking

- (1) Before granting consent to residential development on land to which this Part applies, the consent authority must take into account the following:
- the proximity of multi-unit housing zones to rail station centres and major bus routes along Mona Vale Road serving the St Ives Centre,
 - the desirability of encouraging use of public transport,
 - that the impact of car parking on the natural ground area of multi-unit housing lots should be minimised and the need to provide sufficient deep soil landscaping for trees and their long-term sustainability,
 - that the visual impact of car parking both from the street and from other land (private or public) should be minimised.

- (2) Consent must not be granted to development that will result in more than one dwelling on a site unless:
 - (a) at least one car space is provided per dwelling and, if the site is not within 400 metres of a pedestrian entry to a railway station, one additional car space is provided for each dwelling with 3 or more bedrooms, and
 - (b) at least one additional visitor car space is provided for every 4 dwellings, or part thereof, that will be on the site.
- (3) All car parking provided must not be open air car parking unless it is for visitors, in which case it must be constructed with water-permeable paving unless the paving is directly above part of the basement.

25K Steep slope sites

Consent may be granted to a building on a site with a site slope greater than 15% that would:

- (a) exceed the number of storeys controls in clause 25I (8) by only one storey for up to 25% of the building footprint, or
- (b) exceed the height controls in clause 25I (8), but only by up to 3 metres for up to 25% of the building footprint, or
- (c) take advantage of the concessions conferred by both paragraphs (a) and (b), but only for up to the same 25% of the building footprint.

25L Zone interface

- (1) The objective of this clause is to provide a transition in the scale of buildings between certain zones.
- (2) The third and fourth storey of any building on land within Zone No 2 (d3) must be set back at least 9 metres from any boundary of the site of the building with land (other than a road) that is not within Zone No 2 (d3).
- (3) Landscaping required to screen development from any adjoining property must be provided on the site and must not rely on landscaping on the adjoining property.

25M Non-discretionary development standards for residential flat buildings in Zone No 2 (d3)

Pursuant to section 79C (6) (b) of the Act, the development standards for number of storeys, site coverage, landscaping and building set back that are set by this Part are identified as non-discretionary development standards for development for the purpose of a residential flat building on land within Zone No 2 (d3).

25N Manageable housing

(1) Objectives

The objectives of this clause are:

- (a) to increase the housing choice for seniors and people with disabilities, and
- (b) to encourage ageing in place.

(2) Requirement for manageable housing

Consent must not be granted to development for the purpose of multi-unit housing in Zone No 2 (d3) unless:

- (a) at least one dwelling comprises manageable housing for each 10 dwellings (or part thereof) comprising the multi-unit housing, and
- (b) wheelchair access is provided to all dwellings comprising the manageable housing.

(3) Requirement for lifts

A lift must be provided in all multi-unit housing of more than 3 habitable storeys in Zone No 2 (d3).

25NA Strata subdivision of dual occupancies

*(Clause 25NA inserted by Local Environmental Plan No 204
vide Government Gazette No 98 of 5 August 2005)*

Despite any other provision of this Ordinance, the Council may grant consent to the subdivision, under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, of any land within Zone No 2 (c1), 2(c2) or 2(d3) that is the subject of a development consent for development allowed by Part 3 of *State Environmental Planning Policy No 53 – Metropolitan Residential Development*.

PART IIIB

14-18 Coonanbarra Road and Archdale Park, Wahroonga

*(Part IIIB inserted by Local Environmental Plan No 182
vide Government Gazette No 77 of 24 June 2005)*

25O What land is affected by this Part of the Ordinance?

This Part of the Ordinance applies to the land at Nos 14-18 Coonanbarra Road, Wahroonga (being lot 24 in DP 2666, lot 1 in DP 726103 and lot C in DP 369438) and to Archdale Park, Neringah Avenue South, Wahroonga (being lot B in DP 369438), which is shown coloured light scarlet with dark red edging and lettered “2 (d)” and coloured dark green, respectively, on the map marked “*Ku-ring-gai Local Environmental Plan No 182*” held in the office of the Council.

25P What is Council’s vision for this land?

Council’s vision for Archdale Park is continuation of its role as an open space recreation area for residents and visitors to Ku-ring-gai, with this role formalised through the rezoning proposed by *Ku-ring-gai Local Environmental Plan No 182*.

Council’s vision for Nos 14-18 Coonanbarra Road is a site in which vegetation, especially in the form of tall trees, is the dominant impression when viewed from Coonanbarra Road and the town centre opposite. Council envisages a future development of the site in which new buildings are softened and screened from adjoining sites by vegetation located in sizeable setbacks along side and rear boundaries. Council’s preferred built form for the site is two apartment buildings which appear as 3 storeys but which may also accommodate additional floorspace unobtrusively in an attic style arrangement within roof space. Council prefers the creation of human scaled, climatically responsive dwellings that are comfortable to live in without the need for artificial heating or cooling. Council envisages a development outcome in which surrounding residences retain current levels of privacy and access to sunlight and residents of new development may provide informal surveillance of Archdale Park and the pedestrian walkway to enhance the safety of these public spaces.

25Q Definitions

In this Part:

attic means a storey:

- (a) comprising space at one level only wholly contained within the roof space (except for any dormer or clerestory windows which may project above the roof) of, and forming part only of, a dwelling, and
- (b) where the pitch of the roof creating the space does not exceed 35 degrees from the horizontal, and

- (c) where the total floor space area of the storey comprising the attic does not exceed 60% of the total floor space area of the storey immediately below the attic, and
- (d) which does not have any balcony, terrace or the like.

building footprint means the total maximum extent of the two dimensional area of the plan view of a building including all levels and including any part of the building below ground.

deep soil landscaping means a part of the site area that:

- (a) is not occupied by structure whatsoever, whether below or above the surface of the ground (except for paths up to 1 metre wide), and
- (b) is at least 2 metres wide, and
- (c) is not used for car parking.

dwelling means a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.

ecologically sustainable development has the meaning of that term in the *Local Government Act 1993* and includes the following:

- (a) conservation of natural resources,
- (b) optimisation of the use of natural features,
- (c) optimisation of energy efficiency,
- (d) maintenance or improvement of air, water and soil quality,
- (e) reduction of car dependence, and
- (f) waste avoidance and minimisation, and cleaner production.

floor space ratio of a building means the ratio of total floor space area of the building to the site area.

ground level means the natural level of the ground before the erection of any building or the carrying out of any work.

manageable housing is housing in accordance with Class C – Adaptable Housing Features as set out in Australian Standards AS 4299 – 1995, *Adaptable housing* and must contain a bedroom, kitchen, dining area and bathroom on the ground floor, or where not on the ground floor, on a level to which lift access is provided.

perimeter ceiling height means the vertical distance measured between ground level at any point and the topmost point of any ceiling where it meets, or where a horizontal projection of the ceiling would meet, any external or enclosing wall of the building.

residential flat building means a building containing three or more dwellings.

site area, in relation to proposed development, means the areas of land to which an application for consent to carry out the development relates, excluding any land on which the development is not permitted under any environmental planning instrument and excluding the area of any access handle.

site coverage means the proportion of the building footprint to the site area, expressed as a percentage.

special qualities of Ku-ring-gai include:

- (a) its natural features, such as steep terrain, ridge tops dominated by trees and rich shale soils, and
- (b) its tall tree character, and especially the Blue Gum High Forests and Sydney Turpentine Ironbark Forests, and
- (c) its relatively undisturbed soil profiles.

tall tree means a native tree which is greater than 15 metres in height when mature and endemic to the site and its surrounds.

25R General aims, objective and principles of this Part

(1) The general aims of this Part are:

- (a) to protect and enhance the environmental, heritage and special qualities of Ku-ring-gai, and
- (b) to encourage orderly development of land and resources in Ku-ring-gai, and
- (c) to foster environmental, economic, social and physical well-being so that Ku-ring-gai continues to be an enjoyable place to live in harmony with the environment, and
- (d) to encourage new development to be compatible with the character of the surrounding neighbourhood.

(2) The general objectives of this Part for residential development are:

- (a) the provision of increased housing choice, and
- (b) the achievement of high quality urban design and architectural design:
 - (i) of buildings, and
 - (ii) in the relationship of buildings with neighbouring development, the public domain and landscape quality, and
- (c) the development of Ku-ring-gai with regard to the principles of ecologically sustainable development, and
- (d) the encouragement of use of public transport, walking and cycling, and

- (e) the achievement of a high level of residential amenity in building design for the occupants of buildings through sun access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision, and
 - (f) the protection of the natural environment of Ku-ring-gai, including bio diversity, the general tree canopy, natural watercourses, natural soil profiles, groundwater and topography and to reduce and mitigate impacts on natural areas including the National Parks and bushland reserves.
- (3) The principles to be followed for the purpose of achieving the aims of this Part for residential development are as follows:
- (a) recognition of the responsibilities of current generations to future generations in relation to environmental quality and resource usage by respecting the limits of natural and physical resources,
 - (b) involvement of the community in the planning process by ensuring openness, accountability and transparency in the decision-making process,
 - (c) consistent application of the provisions of this Part so that the aims and objectives can be achieved in practice, and provide certainty for applicants for development consents, investors, residents and the public,
 - (d) consistent and proper regard for the aims, objectives and principles of this Part by the consent authority, in particular when it considers development applications.

25S Specific objectives for development of 14-18 Coonanbarra Road, Wahroonga

(Note: Subclause 25(2) numbered in error when LEP 182 was gazetted on 24/06/05, should not have been numbered as no subclause 25S(1) exists)

- (2) The specific objectives for development of land within Zone No 2 (d) known as 14-18 Coonanbarra Road, Wahroonga, are as follows.
- (a) to ensure that building heights are compatible with the local context,
 - (b) to provide rear setbacks that ensure rear gardens are adjacent rear gardens of other properties and that sufficient ground area is available for tall tree planting, consistent with the general objectives of this Part,
 - (c) to protect existing trees within setback areas and to ensure that new development provides sufficient viable deep soil landscaping and tall trees in rear and front gardens,
 - (d) to provide side setbacks and setbacks to Archdale Park that enable effective landscaping, tree planting between buildings, separation of buildings for privacy and screening of the building when seen from the park,
 - (e) to minimise the impact on landscape character of car parking required by new development,

- (f) to limit the frontage width of buildings in order to minimise visual impact of multi-unit housing on the streetscape,
- (g) to provide built upon area controls to ensure the provision of viable deep soil landscaping in order to maintain and improve the tree canopy in a sustainable way, and to be in scale with the built form,
- (h) to encourage the planting of nominated tree species that are endemic to Kuring-gai,
- (i) to require on-site detention for stormwater for all new development to avoid excessive run-off and impacts on natural watercourses and the long term health of tall trees, and to promote natural absorption,
- (j) to encourage water-sensitive urban design,
- (k) to ensure sunlight access to neighbours and to provide sunlight access to occupants of new buildings,
- (l) to ensure compatibility of scale between buildings,
- (m) to encourage safety and security of the public domain by facing windows and building entries to the street or public footways where appropriate and windows to Archdale Park in order to maximise casual surveillance opportunities,
- (n) to encourage safety and security of private developments by building design and landscape design,
- (o) to encourage the provision of housing for aged and disabled persons by prescribing appropriate dwelling design standards for new development,
- (p) to ensure that adequate documentation is provided with development applications so that proposals may be understood by members of the public and the consent authority may carry out a thorough assessment of the application,
- (q) to provide for waste management (including provision for garbage storage and collection) consistent with the general objectives of this Part,
- (r) to ensure that residential development on the site makes adequate provision for the storage needs of eventual occupants.

25T Effect of objectives

The consent authority, before granting consent for any development, must have regard to the general objectives of this Part and any specific objectives relevant to the proposed development.

25U Subdivision standards applying to 14-18 Coonanbarra Road, Wahroonga

- (1) The objectives of this clause are as follows:

- (a) to provide minimum lot areas that respond to the existing minimum subdivision lot sizes,
 - (b) to provide minimum lot areas and minimum street frontage lot widths that provide for development to occur in a garden setting with substantial setbacks to enable long term sustainability of trees,
 - (c) to permit strata subdivision of multi-unit housing development,
 - (d) to provide for substantial common landscaped areas to enhance streetscape quality and provide areas for trees for each development.
- (2) Where development listed in Column 1 of the Table to this subclause is permissible, a subdivision of land (excluding strata subdivision or a neighbourhood subdivision) to create a lot to be used for that development is not to result in an allotment with an area or street frontage less than the minimum area or street frontage specified for the development in Columns 2 and 3 of that Table:

Table – Subdivision Controls

Column 1	Column 2	Column 3
Development for the purpose of:	Minimum site area (square metres)	Minimum street frontage width (metres)
Residential flat buildings	2,000	30

- (3) However, consent must not be given to a subdivision of that land where, in the opinion of the consent authority, the result would or could be the isolation of lots (for example, creation of a lot of insufficient size to allow its development), except where the lot is created for the purpose of drainage, roads or open space.

25V Site requirements for multi-unit buildings and building heights

- (1) The objectives of this clause are as follows:
- (a) to achieve site-responsive development at a scale which is compatible with existing localities by control of visual impacts relating to height and bulk,
 - (b) to take into consideration the impact of overshadowing and loss of privacy and loss of outlook,
 - (c) to achieve an appropriate separation between buildings and site boundaries and landscaped corridors along rear fence lines,
 - (d) to protect and enhance the environmental features which are characteristic of the land within Zone No 2 (d) known as 14-18 Coonanbarra Road, Wahroonga, by requiring sufficient space on-site for effective landscaping,
 - (e) to provide for landscaping to ensure that the built form does not dominate the landscape.
- (2) A residential flat building is not to be erected on the land within Zone No 2 (d) known as 14-18 Coonanbarra Road, Wahroonga:

- (a) on any allotment which has a site area of less than 2,000 square metres, or
 - (b) on any allotment which has a street frontage of less than 30 metres, or
 - (c) so as to result in a floor space ratio of more than 0.92:1, or
 - (d) so as to result in the create of less than two apartment buildings, which may or may not be joined by a small common foyer which is largely transparent in nature, or
 - (e) so as to result in a site coverage of more than 36%, or
 - (f) so as to result in a building setback (above natural ground level) to property boundaries with Coonanbarra Road of less than 10 metres, a setback to the property boundary with Archdale Park of less than 5 metres, a setback to the property boundary with No 12 Coonanbarra Road of less than 6 metres, a setback to the property boundary with No 3 Neringah Avenue of less than 14 metres and a setback to the property boundary with the public footway on the northern boundary of less than 6 metres, or
 - (g) so as to result in a building or more than three storeys and an attic, or
 - (h) so as to result in the loss of any existing healthy camphor laurel trees along the Coonanbarra Road frontage of the property or along the nature strip.
- (3) Development on land within Zone No 2 (d) known as 14-18 Coonanbarra Road, Wahroonga, is to comply with the Table below:

Table – Building heights

Zone	Maximum perimeter ceiling height, not including attics	Maximum number of storeys
No 2 (d)	10 metres	3 storeys plus 1 attic

- (4) Any storey which is used exclusively for car parking or for storage or plant in accordance with the requirements of this Ordinance or a recommendation in any development control plan and no part of which (including any wall or ceiling which encloses or defines the storey) is more than 1.2 metres above ground level, is not to be counted as a storey for the purposes of subclause (3).

25W Car parking

- (1) This clause applies to the land within Zone No 2 (d) known as 14-18 Coonanbarra Road, Wahroonga.
- (2) The objectives of this clause are as follows:
 - (a) to acknowledge the proximity of land to which this clause applies to Wahroonga rail station,
 - (b) to encourage use of public transport,

- (c) to minimise the impact of car parking on the natural ground area of multi-unit housing lots and to provide for sufficient deep soil landscaping for trees and their long term sustainability,
 - (d) to minimise the visual impact of car parking both from the street and from other land (private or public).
- (3) For development that results in more than one dwelling on a site:
- (a) one car space is to be provided per dwelling and one additional car space may be provided for each dwelling with 3 or more bedrooms, and
 - (b) one additional visitor car space is to be provided for every 4 dwellings, or part thereof.
- (4) No car parking, other than for visitors, is to be open air car parking. Any open air car parking is to be constructed with water permeable paving.

25X Manageable housing

- (1) Objectives of this clause

The objectives of this clause are:

- (a) to increase the housing choice for older people and people with disabilities, and
- (b) to encourage ageing in place.

- (2) **Development to which this clause applies**

(Note: The address of 12-14 Coonanbarra Road, Wahroonga was printed in error when LEP 182 was gazetted on 24/06/05, the address should have been 14-18 Coonanbarra Road, Wahroonga)

This clause applies to all development for the purpose of residential flat buildings on the land within Zone No 2 (d) known as 12-14 Coonanbarra Road, Wahroonga.

- (3) **Requirement for manageable housing**

All residential flat buildings are to be designed so that at least one dwelling in each 10 dwellings (or part thereof) comprises manageable housing.

- (4) **Requirement for lifts**

A passenger lift is to be provided in all residential flat buildings of more than three storeys.

* * * * *

PART IIIC Wahroonga Estate site

Division 1 Preliminary

25Y Application of Part

- (1) This Part applies to the land identified on the Land Application Map, referred to in this Part as the **Wahroonga Estate site**.
- (2) No other provisions of this Ordinance apply to the Wahroonga Estate site.

25Z Interpretation

- (1) In this Part:

consent authority has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

Gross Floor Area Map means the “Ku-ring-gai Planning Scheme Ordinance - Wahroonga Estate Gross Floor Area Map” deposited in the office of the Council.

Height of Buildings Map means the “Ku-ring-gai Planning Scheme Ordinance - Wahroonga Estate Height of Buildings Map” deposited in the office of the Council.

heritage item means a building, work, archaeological site, tree or place:

- (a) shown on the Heritage Map as a heritage item, and
- (b) the location and nature of which is described in the Table to clause 26R (8).

Heritage Map means the “Ku-ring-gai Planning Scheme Ordinance—Wahroonga Estate Heritage Map” deposited in the office of the Council.

Land Application Map means the “Ku-ring-gai Planning Scheme Ordinance - Wahroonga Estate Land Application Map” deposited in the office of the Council.

Land Zoning Map means the “Ku-ring-gai Council Planning Scheme Ordinance - Wahroonga Estate Land Zoning Map” deposited in the office of the Council.

place of Aboriginal heritage significance means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition (whether before or after the commencement of this Part) and that may be shown on the Heritage Map, that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) unless it is otherwise defined in this Part.

26A Application of SEPPs

This Part is subject to the provisions of all State environmental planning policies other than *State Environmental Planning Policy No 1—Development Standards*.

Division 2 Provisions relating to development in Wahroonga Estate site

26B Land use zones

For the purposes of this Part, land within the Wahroonga Estate site is in one of the following zones if the land is shown on the Land Zoning Map as being within that zone:

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,
- (d) Zone R4 High Density Residential,
- (e) Zone B1 Neighbourhood Centre,
- (f) Zone SP1 Special Activities,
- (g) Zone E2 Environmental Conservation.

26C Objectives of land use zones to be taken into account

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

26D Zone R1 General Residential

- (1) The objectives of Zone R1 General Residential are as follows:
- (a) to provide for the housing needs of the community,
 - (b) to provide for a variety of housing types and densities,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone R1 General Residential:

home occupations.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential:

attached dwellings; boarding houses; child care centres; community facilities; dwelling houses; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; residential flat buildings; respite day care centres; roads; semi-detached dwellings; seniors housing; shop top housing.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2) or (3).

26E Zone R2 Low Density Residential

- (1) The objectives of Zone R2 Low Density Residential are as follows:

- (a) to provide for the housing needs of the community within a low density residential environment,
- (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
- (c) to ensure that housing is compatible with the existing environmental character of the area.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential:

home-based child care; home occupations.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential:

bed and breakfast accommodation; boarding houses; child care centres; community facilities; dual occupancies; dwelling houses; educational establishments; environmental protection works; health consulting rooms; home businesses; home industries; neighbourhood shops; places of public worship; recreation areas; respite day care centres; roads; secondary dwellings; seniors housing; signage.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

26F Zone R3 Medium Density Residential

- (1) The objectives of Zone R3 Medium Density Residential are as follows:
 - (a) to provide for the housing needs of the community within a medium density residential environment,
 - (b) to provide a variety of housing types within a medium density residential environment,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R3 Medium Density Residential:

home-based child care; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R3 Medium Density Residential:

attached dwellings; bed and breakfast accommodation; boarding houses; child care centres; community facilities; dual occupancies; dwelling houses; educational establishments; environmental protection works; group homes; home businesses; home industries; hostels; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; respite day care centres; roads; secondary dwellings; semi-detached dwellings; seniors housing.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R3 Medium Density Residential unless it is permitted by subclause (2) or (3).

26G Zone R4 High Density Residential

- (1) The objectives of Zone R4 High Density Residential are as follows:
 - (a) to provide for the housing needs of the community within a high density residential environment,
 - (b) to provide a variety of housing types within a high density residential environment,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R4 High Density Residential:

home occupations.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R4 High Density Residential:

bed and breakfast accommodation; boarding houses; child care centres; community facilities; dwelling houses; educational establishments; environmental protection works; group homes; health consulting rooms; home businesses; home industries; hostels; medical centres; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; residential flat buildings; respite day care centres; roads; seniors housing; serviced apartments; shop top housing.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R4 High Density Residential unless it is permitted by subclause (2) or (3).

26H Zone B1 Neighbourhood Centre

- (1) The objective of Zone B1 Neighbourhood Centre is to provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone B1 Neighbourhood Centre:

home occupations.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B1 Neighbourhood Centre:

business premises; car parks; child care centres; community facilities; environmental protection works; food and drink premises (other than pubs); office premises; places of public worship; public administration buildings; respite day care centres; roads; shop top housing; shops; signage; veterinary hospitals.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone B1 Neighbourhood Centre unless it is permitted by subclause (2) or (3).

26I Zone SP1 Special Activities

- (1) The objectives of Zone SP1 Special Activities are as follows:

- (a) to provide for special land uses that are not provided for in other zones,
- (b) to provide for sites with special natural characteristics that are not provided for in other zones,
- (c) to facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone SP1 Special Activities:

nil.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone SP1 Special Activities:

roads; the purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone SP1 Special Activities unless it is permitted by subclause (2) or (3).

26J Zone E2 Environmental Conservation

- (1) The objectives of Zone E2 Environmental Conservation are as follows:

- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
- (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation:

environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:

environmental facilities.

- (4) Except as otherwise provided by Part, development is prohibited on land within Zone E2 Environmental Conservation unless it is permitted by subclause (2) or (3).

26K Prohibited development

Development on land within the Wahroonga Estate site that is part of a transitional Part 3A project is prohibited if it would be prohibited were it development to which Part 4 of the Act applies.

26L Subdivision - consent requirements

- (1) Land within the Wahroonga Estate site may be subdivided, but only with development consent.

- (2) However, development consent is not required for a subdivision for the purpose only of any one or more of the following:
- (a) widening a public road,
 - (b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
 - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (d) rectifying an encroachment on a lot,
 - (e) creating a public reserve,
 - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

26M Height and gross floor area restrictions

- (1) The height of a building on any land within the Wahroonga Estate site is not to exceed the maximum height shown for the land on the Height of Buildings Map.
- (2) The total gross floor area of all buildings (excluding the floor area of dwellings) within a precinct must not exceed the gross floor area shown for the precinct on the Gross Floor Area Map.
- (3) For the purposes of subclause (2), a precinct is an area within the Wahroonga Estate site shown by distinctive colouring on the Gross Floor Area Map.
- (4) This clause does not apply to a transitional Part 3A project to the extent to which an approval for a concept plan for the project provides for a building or buildings that exceeds or exceed the height or gross floor area restrictions, or both, set out in subclauses (1) and (2).

26N Maximum number of dwellings

A person must not erect a dwelling on land within the Wahroonga Estate site if, as a result, the number of dwellings within that site would exceed 500.

26O Exceptions to development standards

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone SP1 Special Activities or Zone E2 Environmental Conservation.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (4).

- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

26P Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

26Q Preservation of trees or vegetation

- (1) The objective of this clause is to preserve the amenity of the Wahroonga Estate site through the preservation of trees.
- (2) This clause applies to a tree that meets the criteria set out under the heading “What is a tree under this Order?” in the tree preservation order made under clause 42 of this Ordinance and adopted by the Ku-ring-gai Council on 12 December 2006, but does not apply to a tree of a species described as an exempt tree species in that order.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree to which this clause applies on the Wahroonga Estate site without the authority conferred by:
 - (a) development consent, or
 - (b) a permit granted by the Council.
- (4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree that the Council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree that is or forms part of a heritage item.

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 26T will be applicable to any such consent.

- (8) This clause does not apply to or in respect of:
- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
 - (b) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
 - (c) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

26R Heritage conservation

(1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of the Wahroonga Estate site, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve places of Aboriginal heritage significance.

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item,
- (b) altering a heritage item, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located,
- (g) subdividing land on which a heritage item is located.

(3) When consent not required

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature, or is for the maintenance of the heritage item or archaeological site, and
 - (ii) would not adversely affect the significance of the heritage item or archaeological site, or
- (b) the development is limited to the removal of a tree or other vegetation that the consent authority is satisfied is a risk to human life or property, or
- (c) the development is exempt development.

(4) Effect on heritage significance

The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item concerned.

(5) Heritage impact assessment

The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or
- (b) within the vicinity of land on which a heritage item is situated, require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item concerned.

(6) Places of Aboriginal heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

(7) **Conservation incentives**

The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
 - (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
 - (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
 - (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
 - (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.
- (8) For the purposes of paragraph (b) of the definition of **heritage item** in clause 2 (1), the location and nature of a heritage item is specified in the following Table:

Table—heritage items

Item description	Address	Property Description
Administrative headquarters, Seventh Day Adventist Church	148 Fox Valley Road Wahroonga	Lot 621, DP 1128314

26S 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 any applicable environmental planning instrument, or
 - (b) the earthworks are ancillary to development that is permitted without consent under this Part or to development for which development consent has been given.

- (3) Before granting 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 of adjoining properties,
 - (e) the source of any fill material and the destination of any excavated material,
 - (f) the likelihood of disturbing relics,
 - (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
 - (h) 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.

26T Public utility infrastructure

- (1) Development consent must not be granted for development on land within the Wahroonga Estate site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
 - (a) the supply of water,
 - (b) the supply of electricity or gas,
 - (c) the disposal and management of sewage.

26U Infrastructure development and use of existing buildings of the Crown

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

26V Temporary use of land

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Part, development consent may be granted for development on land within the Wahroonga Estate site in any zone for a temporary purpose for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
 - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Part and any other applicable environmental planning instrument, and
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
 - (d) at the end of the temporary use period the site will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or housing estate may exceed 52 days (whether or not consecutive days) in any period of 12 months.
- (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

PART IIID UTS Ku-ring-gai Campus site

Division 1 Preliminary

26W Application of Part

- (1) This Part applies to the land identified on the Land Application Map, referred to in this Part as the **UTS Ku-ring-gai Campus site**.
- (2) No other provisions of this Ordinance apply to the UTS Ku-ring-gai Campus site.

26X Interpretation

- (1) In this Part:

consent authority has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

Height of Buildings Map means the “Ku-ring-gai Planning Scheme Ordinance—UTS Ku-ring-gai Campus Height of Buildings Map” deposited in the office of the Council.

Heritage Map means the “Ku-ring-gai Planning Scheme Ordinance—UTS Ku-ring-gai Campus Heritage Map” deposited in the office of the Council.

Land Application Map means the “Ku-ring-gai Planning Scheme Ordinance—UTS Ku-ring-gai Campus Land Application Map” deposited in the office of the Council.

Land Zoning Map means the “Ku-ring-gai Planning Scheme Ordinance—UTS Ku-ring-gai Campus Land Zoning Map” deposited in the office of the Council.

- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) unless it is otherwise defined in this Part.

26Y Application of SEPPs

This Part is subject to the provisions of all State environmental planning policies other than *State Environmental Planning Policy No 1—Development Standards*.

Division 2 Provisions applying to development within UTS Ku-ring-gai Campus site

26Z Application of Part

This Part applies with respect to development within the UTS Ku-ring-gai Campus site.

26ZA Land use zones

- (1) For the purposes of this Part, land within the UTS Ku-ring-gai Campus site is in a zone as follows if the land is shown on Land Zoning Map as being within that zone:
 - (a) Zone R1 General Residential,
 - (b) Zone R2 Low Density Residential,
 - (c) Zone B4 Mixed Use,
 - (d) Zone RE1 Public Recreation,
 - (e) Zone E1 National Parks and Nature Reserves,
 - (f) Zone E3 Environmental Management.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

26ZB Zone R1 General Residential

- (1) The objectives of Zone R1 Residential are as follows:
 - (a) to provide for the housing needs of the community,
 - (b) to provide for a variety of housing types and densities,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
 - (d) to provide for development that is compatible with the environmental and heritage qualities of the locality,
 - (e) to promote a high standard of urban and architectural design of development,
 - (f) to promote the establishment of a sustainable community.
- (2) Development for any of the following purposes is permitted without consent in Zone R1 General Residential:

home occupations; roads.
- (3) Development for any of the following purposes is permitted only with development consent in Zone R1 General Residential:

attached dwellings; boarding houses; child care centres; community facilities; dwelling houses; educational facilities; group homes; hostels; multi dwelling houses; neighbourhood shops; places of public worship; recreational facilities (indoor); residential flat buildings; residential care facilities; respite day care centres; semi-detached dwellings; seniors housing; shop top housing.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2) or (3).

26ZC Zone R2 Low Density Residential

- (1) The objectives of Zone R2 Low Density Residential are as follows:
 - (a) to provide for the housing needs of the community within a low density residential environment,
 - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without consent in Zone R2 Low Density Residential:

home occupations; roads.
- (3) Development for any of the following purposes is permitted only with development consent in Zone R2 Low Density Residential:

dwelling houses; group homes.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

26ZD Zone B4 Mixed Use

- (1) The objectives of Zone B4 Mixed Use are as follows:
 - (a) to provide a mixture of compatible land uses,
 - (b) to integrate suitable business, office, residential, retail and other development so as to maximise public transport patronage and encourage walking and cycling and without adversely impacting on heritage items.
- (2) Development for any of the following purposes is permitted only with development consent in Zone B4 Mixed Use:

boarding houses; business premises; child care centres; community facilities; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; kiosks; neighbourhood shops; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; respite day care centres; retail premises; roads; seniors housing; shop top housing.

- (3) Except as otherwise provided by this Part, development is prohibited on land within Zone B4 Mixed Use unless it is permitted by subclause (2).

26ZE Zone RE1 Public Recreation

- (1) The objectives of Zone RE1 Public Recreation are as follows:
 - (a) to enable land to be used for public open space or recreational purposes,
 - (b) to provide a range of recreational settings and activities and compatible land uses,
 - (c) to protect and enhance the natural environment for recreational purposes.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation:

car parks; roads.
- (3) Development for any of the following purposes is permitted only with development consent in Zone RE1 Public Recreation:

community facilities; kiosks; recreation areas.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2) or (3).

26ZF Zone E1 National Parks and Nature Reserves

- (1) The objectives of Zone E1 National Parks and Nature Reserves are as follows:
 - (a) to enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act,
 - (b) to enable uses authorised under the *National Parks and Wildlife Act 1974*,
 - (c) to identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and to protect the environmental significance of that land.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E1 National Parks and Nature Reserves:

uses authorised under the *National Parks and Wildlife Act 1974*.
- (3) Except as otherwise provided by this Part, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2).

26ZG Zone E3 Environmental Management

- (1) The objectives of Zone E3 Environmental Management are as follows:
 - (a) to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values,

- (b) to provide for a limited range of development that does not have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E3 Environmental Management:

environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management:

dwelling houses; roads.
- (4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone E3 Environmental Management:
industries; multi dwelling housing; residential flat buildings; retail premises;
seniors housing; service stations; warehouse or distribution centres; any other
development not specified in subclause (2) or (3).

26ZH Subdivision—consent requirements

Land within the UTS Ku-ring-gai Campus site may be subdivided, but only with development consent.

26ZI Demolition requires development consent

The demolition of a building or work on land within the UTS Ku-ring-gai Campus site may be carried out only with development consent.

26ZJ Public utility undertakings excepted

Development for the purpose of a public utility undertaking that is carried out on land within the UTS Ku-ring-gai Campus site does not require development consent.

26ZK Exceptions to development standards

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (7) This clause does not allow consent to be granted for development that would contravene any of the following:
 - (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

26ZL Height of buildings

- (1) The objectives of this clause are as follows:
 - (a) to protect the heritage significance of the UTS Ku-ring-gai Campus main building,
 - (b) to protect the views to the UTS Ku-ring-gai Campus main building.
- (2) The height of a building on any land within the UTS Ku-ring-gai Campus site is not to exceed the maximum height shown for the land on the Height of Buildings Map.

26ZM Interim land use for exhibition and sales office

- (1) Despite any other provision of this Part, development consent may be granted for development on land in Zone RE1 Public Recreation for an exhibition and sales office for a maximum period of 4 years from the date of consent.
- (2) Development consent must not be granted unless the consent authority is satisfied that:
 - (a) the use will not prejudice the subsequent carrying out of development on the land in accordance with this Part and any other applicable environmental planning instrument, and
 - (b) the use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the use and location of any structures related to the use will not adversely impact on environmental attributes, heritage significance, or features of the land, or increase the risk of natural hazards that may affect the land.
- (3) In this clause, *exhibition and sales office* means a building or place, used for house, apartment and land sales, site offices, advisory services, car parking and other associated purposes.

26ZN Maximum number of dwellings

The consent authority must not grant development consent for the erection of a dwelling on land within the UTS Ku-ring-gai Campus site if the number of dwellings within that site would exceed 345.

26ZO Controls relating to miscellaneous permissible uses

- (1) **Kiosks**
If development for the purposes of a kiosk is permitted under this Part, the gross floor area must not exceed 40 square metres.
- (2) **Neighbourhood shops**
If development for the purposes of a neighbourhood shop is permitted under this Part, the gross floor area must not exceed 80 square metres.

(3) **Retail premises**

If development for the purposes of retail premises is permitted under this Part, the gross floor area must not exceed 80 square metres.

26ZP Heritage conservation

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
 - (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
 - (b) damage or remove the relic, or
 - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
 - (d) damage or despoil the tree or place, or
 - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
 - (f) damage any tree or land on which the building, work or relic is situated or on the land which comprises the place, or
 - (g) make structural changes to the interior of the building or work, except with the consent of the consent authority.
- (2) The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that:
 - (a) the conservation of the heritage item is facilitated by the granting of consent, and
 - (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
 - (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
 - (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
 - (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

- (3) Consent is not required under this clause if the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (a) is of a minor nature, or is for the maintenance of the heritage item, and
 - (b) would not adversely affect the significance of the heritage item.
- (4) In this clause, *heritage item* means the building known as the UTS Ku-ring-gai Campus main building, including the gymnasium and footbridge, as shown on the Heritage Map.

26ZQ Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

26ZR Infrastructure development and the use of existing buildings of the Crown

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

PART III E 35 Water Street, Wahroonga (former John Williams Memorial Hospital site)

26ZS Application of Part

- (1) This Part applies to the land known as the former John Williams Memorial Hospital site, being Lot 1, DP 375262, 35 Water Street, Wahroonga, as shown coloured tan, edged heavy black and identified as “E4” on the Land Zoning map.
- (2) This Part prevails to the extent of any inconsistency with any other provisions of this Ordinance.

26ZT Interpretation

- (1) In this Part:
Land Zoning Map means the map marked “Ku-ring-gai Local Environmental Plan No 220 – Land Zoning Map” deposited in the office of the Council.
- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Part.

26ZU Zone objectives and Land Use Table

- (1) For the purposes of this Part, land is within the zone shown on the Land Zoning Map.
- (2) The Land Use Table at the end of this Part specifies for the zone:
 - (a) the objectives for development, and
 - (b) development that may be carried out without development consent, and
 - (c) development that may be carried out only with development consent, and
 - (d) development that is prohibited.
- (3) The consent authority must have regard to the objectives for development in the zone when determining a development application in respect of land within the zone.
- (4) In the Land Use Table at the end of this Part:
 - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
 - (b) a reference to a type of building or other thing does not include (despite any definition applying for the purposes of this Part) a reference to a type of building or other thing referred to separately in the Table in relation to the zone.
- (5) This clause is subject to the other provisions of this Part.

26ZV Demolition requires development consent

The demolition of a building or work may be carried out only with development consent.

Note. If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Ordinance or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without development consent.

26ZW Subdivision – consent requirements

Land to which this Part applies may be subdivided, but only with development consent.

Notes.

1. If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as this Ordinance or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.
2. Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.

26ZX Minimum subdivision lot size

- (1) The objectives of this clause are as follows:
 - (a) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls,
 - (b) to ensure that lot sizes and dimensions allow development to be sited to protect natural or cultural features, including heritage items, remnant vegetation, habitat and waterways, and provide for generous landscaping to support the amenity of adjoining properties and the desired character of the area.
- (2) This clause applies to a subdivision of any land to which this Part applies that requires development consent and that is carried out after the commencement of this Part.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than 1,500 square metres.
- (4) In addition to subclause (3), development consent must not be granted for a subdivision of land to which this clause applies if the subdivision would result in a lot that is less than 18 metres wide at 12 metres from the street frontage of the lot.
- (5) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.
- (6) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.

26ZY Height of buildings

- (1) The objective of this clause is to enable development with a built form that is compatible with the size of the land to be developed.
- (2) The maximum height of a building on any land is not to exceed 9.5 metres.

26ZZ Floor space ratio

- (1) The objective of this clause is to enable development with a built form and density compatible with the size of the land to be developed, its environmental constraints and its contextual relationship.
- (2) The maximum floor space ratio for a building on any land is not to exceed $((250 + (0.15 \times \text{site area})) / \text{site area})$: 1.

26ZZA Controls relating to miscellaneous permissible uses

(1) Bed and breakfast accommodation

If development for the purposes of bed and breakfast accommodation is permitted under this Part, the accommodation that is provided to guests must consist of no more than 3 bedrooms.

Note. Any such development that provides for a certain number of guests or rooms may involve a change in the class of building under the *Building Code of Australia*.

(2) Home businesses

If development for the purposes of a home business is permitted under this Part, the carrying on of the business must not involve the use of more than 50 square metres of floor area.

(3) Home industries

If development for the purposes of a home industry is permitted under this Part, the carrying on of the home industry must not involve the use of more than 70 square metres of floor area.

(4) Secondary dwellings

If development for the purposes of a secondary dwelling is permitted under this Part, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,
- (b) 25% of the total floor area of the principal dwelling.

LAND USE TABLE

Zone E4 Environmental Living

1 Objectives of zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To ensure that development does not result in further fragmentation of ecological communities, biodiversity corridors or other significant vegetation or habitat.

2 Permitted without consent

Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Community facilities; Dwelling houses; Environmental facilities; Environmental protection works; Flood mitigation works; Home-based child care; Home businesses; Home industries; Recreation areas; Roads; Secondary dwellings

4. Prohibited

Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

PART IV

Business Centre Provisions

*(New Part IV inserted by Local Environmental Plan No 100(Business Centres)
vide Government Gazette No 102 of 21st August 1992)*

Land to which this Part applies

26. This Part applies to the land shown edged heavy black on sheet 1 of the map marked "Ku-ring-gai Local Environmental Plan No. 100 (Business Centres)" deposited in the office of the Council of the Municipality of Ku-ring-gai.

Interpretation

27. For the purpose of this Part only:

"Community centre" means a building or place owned or controlled by the Council and used to provide facilities comprising or relating to any one or more of the following:

- (a) a public library;
- (b) public health and food services;
- (c) rest and refreshment rooms;
- (d) meeting rooms;
- (e) indoor recreation;
- (f) child minding facilities,

or to provide any other like facilities.

"Floor space ratio", in relation to a site, means the ratio of the total floor space area of any building or buildings to the site area of the development which contains or comprises the building or buildings.

"Ground level" means the level of the site of proposed development immediately prior to the lodgement with the Council of the development application for the proposed development, whether or not this level is the natural ground level of the site, but, in establishing that level, no regard is to be had to any building or work carried out without the consent of the Council.

"Height" is measured vertically from the ground level at any point of the site.

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

"Offensive or hazardous industry" means an industry which, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.

"Panel beating workshop" means a building or place used for the purpose of carrying out repairs to motor vehicles and agricultural machinery, where the work involved includes:

- (a) body building;
- (b) panel beating which may or may not involve dismantling; or
- (c) spray painting.

"Recreation facility" means a building or place (not being a marina) used for a sporting activity, for exercise, or for a pastime or leisure activity, whether operated for the purpose of gain or not, but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purpose elsewhere specifically defined in this clause.

"Site area", in relation to development, means the area of land to which an application for consent to carry out the development relates, excluding therefrom any land on which the development is not permitted by or under this Ordinance or any other environmental planning instrument.

"The map" means sheet 1 of the map marked "Ku-ring-gai Local Environmental Plan No. 100 (Business Centres)" deposited in the office of the Council of the Municipality of Ku-ring-gai, as amended by the maps (or, if any sheets of the maps are specified, by the specified sheets of the maps) marked as follows:

Ku-ring-gai Local Environmental Plan No.163

Zones indicated on the map

28. For the purposes of this Ordinance, land to which this Part applies shall be within a zone specified below if the land is shown on the map in the manner specified below in relation to that zone:

Zone No. 3(a)(Business - Retail Services) -
edged black and lettered "3(a)".

Zone No 3(b)(Business - Commercial Services) -
edged black and lettered "3(b)".

Zone objectives and development control table

29. (1) The objectives of a zone are set out in the Table to this clause under the heading "Objectives of zone" appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this Ordinance, in relation to land within a specified zone, the purposes (if any) for which:
- (a) development may be carried out without development consent;

(b) development may be carried out only with development consent; and

(c) development is prohibited,

are specified under the headings "Without development consent", "Only with development consent" and "Prohibited", respectively, appearing in the matter relating to the zone.

TABLE

ZONE No. 3(a) (BUSINESS - RETAIL SERVICES)

1. Objectives of zone

The objectives are:

- (a) to identify existing business centres within the Municipality, the principal functions of which are to satisfy the retail and community service demands of the community which they serve;
- (b) to permit, within the business centres' hierarchy, business and office premises of a scale and character which do not threaten the role of the business centres as described in (a) above; and
- (c) to permit other community facilities, recreation, leisure and general services within the zone to meet the needs and demands of employees within the centres and the community which each centre services.

2. Without development consent

Nil.

*(Item 3 omitted and new Item 3 inserted by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

3. Only with development consent

Advertising signs; internal alterations to a building or work.
Any other purpose not included in item 4.

4. Prohibited

Caravan parks; car repair stations; dwelling-houses (other than those used in conjunction with purposes permitted in this zone); extractive industries; gas holders; generating works; industries (other than light industries); institutions; junk yards; liquid fuel depots; mines; panel beating workshops; roadside stalls; stock and sale yards; transport terminals; warehouses; wholesale markets.

ZONE No. 3(b) (BUSINESS - COMMERCIAL SERVICES)

1. Objectives of zone

The objectives are:

- (a) to identify those business centres the principal functions of which are to provide office services and employment opportunities within the Municipality;
- (b) to permit other community facilities, recreation, leisure and convenience services within business centres to meet the needs and demands of employees within the centres; and
- (c) to permit, within the business centres' hierarchy, service industries compatible with the zone.

2. Without development consent

Nil.

*(Item 3 amended by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

3. Only with development consent

Advertising signs; brothels; bulk stores; bus stations; car parking; child care centres; clubs; commercial premises; community centres; drainage; internal alterations to a building or work; light industries; motor showrooms; open space; public buildings; recreation areas; recreation facilities; refreshment rooms; service stations; subdivision; utility installations (other than gas holders or generating works); warehouses; any other purposes which, in the opinion of the Council, are consistent with the objectives of this zone.

4. Prohibited

Any purpose not included in item 3.

Change of use in Zone No.3 (a) or (b)

*(Clause 29A inserted by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

- 29A. Despite the other provisions of this Ordinance, a person may, but only with consent of the Council, carry out a new or different use of a building on land within Zone No.3 (a) or (b).

Floor space zones

30. (1) For the purposes of this Part, land to which this Part applies is within a floor space zone referred to in clause 30A or 30B if it is shown on the map by the addition of the matter shown in the first column of the Table to clause 30B(2) to the lettering prescribed by clause 28.

*(New subclause inserted by Local Environmental Plan No 171
vide Government Gazette No 56 of 7 May 1999)*

- (2) Nothing in this Ordinance permits a building in floor space zone A3 being used as a brothel.

Height of buildings

- 30A. (1) The objectives of this clause are:

- (a) to retain consistency in the apparent height of buildings when viewed from the main streets of each business centre, being generally 2 storeys (with the exception of land within floor space zone B1 where the apparent height is 3 storeys);
 - (b) to minimise the potential for the overlooking and overshadowing of non-business development by business development; and
 - (c) to promote a size of building which does not have an avoidable detrimental visual effect on adjacent residential development.
- (2) Subject to other provisions of this clause, a building on land to which this Part applies shall not exceed:
- (a) a height, at the highest internal point of the ceiling of its topmost storey, of 12 metres in floor space zone B1 or 8 metres in any other floor space zone; and
 - (b) an exterior height determined by a building height plane projected at an angle of 30 from a point 1.5 metres above ground level located at the boundary of land within a residential or open space zone.
- (3) A building may exceed the height prescribed in subclause (2)(a), but only if the Council is satisfied that:
- (a) the existing topography of the site will permit additional height that is consistent with the objectives of this clause; or
 - (b) attic space is contained within a pitched roof and the character of the building (including any attic windows) is not adversely affected and is consistent with the objectives of this clause.
- (4) Subclause (2)(b) shall not apply in the case of a building on land adjoining the side elevation of a building in a residential zone provided the Council is otherwise satisfied that the proposed building is:

- (a) sited (having regard to any side boundary setback or other requirement determined by the Council); and
 - (b) treated on its elevation adjoining the building in the residential zone,
- so as to maintain a reasonable standard of privacy and sunlight penetration to any building in the residential zone and the building's private yard space.
- (5) Attainment of the maximum floor space ratio permitted on the development site will not be a reason for varying the height controls prescribed in this clause.
 - (6) Nothing in this clause shall prevent the Council from granting consent to the use of unenclosed roof space provided it is satisfied that such use is consistent with the objectives of this clause.

Floor space ratios

- 30B. (1) The objective of this clause is to establish a hierarchy of business centres for the following purposes:
- (a) in floor space zone A1, the primary retail and community service centre within the Municipality, to provide a reasonable level of service to the Municipality as a whole;
 - (b) in floor space zone A2, the district retail and community service centres within the Municipality, to provide a reasonable level of service to the surrounding district of each centre;
 - (c) in floor space zone A3, the neighbourhood retail and community service centres within the Municipality, to provide a reasonable level of service to the surrounding neighbourhood of each centre;
 - (d) in floor space zone B1, the primary commercial office centre within the Municipality, to provide office accommodation and associated services for the wider upper-north-shore locality; and
 - (e) in floor space zone B2, the secondary commercial office centres within the Municipality, to provide office and associated services for the local as well as wider area and to provide a transitional zone between retail service zones and surrounding residential areas,

and which relate to the existing size, character and level of activity and to the existing and potential infrastructure capacity of individual centres.

- (2) The Council shall not consent to the erection or use of a building on land within a floor space zone specified in the Table to this clause if its floor space ratio exceeds the ratio specified opposite that floor space zone in the Table.

TABLE

Floor Space Zone	Indication on the map	Floor Space Ratio
A1	3(a)-(A1)	2.0:1
A2	3(a)-(A2)	1.0:1
A3	3(a)-(A3)	0.75:1
B1	3(b)-(B1)	1.0:1
B2	3(b)-(B2)	1.0:1

- (3) Except where a building is designed for residential purposes, in floor space zones A1, A2 and A3 at least fifty percent of the total floor space on the development site is to be used or designed for use for shops or refreshment rooms.
- (4) Nothing in this clause permits a building to exceed the building height provisions prescribed in clause 30A.

Development considerations

30C. The Council is not to grant consent to development on land within a business zone unless it is satisfied that:

- (a) the carrying out of the development is consistent with the general aims for business zones, the objectives of this Part and any Development Control Plan applying to the land;
- (b) any elevation of any building facing land in a residential zone has been designed to be reasonably compatible with the residential development on that land, or is suitably screened;
- (c) the development will maintain a reasonable level (taking into consideration the existing level) of solar access to adjoining residential development between the hours of 9.00 am and 3.00 pm during the winter solstice on 22nd June;
- (d) noise generation from the development site will be effectively insulated or otherwise minimised;
- (e) the development will minimise nuisance to adjoining residential development by way of traffic movements, parking, security lighting or the like;
- (f) the development is sited, designed or treated so as to minimise overlooking of adjoining residential living or recreation areas;

- (g) sufficient (as determined by the Council) off-street parking is supplied by the development to meet the demand generated by the development;
- (h) traffic generated by the development is safely accommodated by the road system and does not unreasonably affect the amenity of surrounding localities;
- (i) adequate space and facilities have been provided, wherever site conditions reasonably permit, for the loading and unloading of goods and materials on the development site;
- (j) the streetscape of the development is compatible with and enhances the streetscape in which it is situated;
- (k) reasonable measures have been taken to make new buildings and major redevelopments energy efficient; and
- (l) an appropriate drainage system is incorporated in the development to minimise the adverse effects of the development on the natural drainage system, other properties and the environment.

Roads, drainage, recreation areas, parking etc.

30D. Nothing in this Part shall restrict or prohibit, or require the Council to obtain its own consent for, development by the Council on land within any business zone for the purposes of roads, stormwater drainage, recreation areas, landscaping, gardening, public amenities or parking.

Part IVA

Pymble Business Park Provisions

30E Land to which this Part applies

This Part applies to the land shown edged heavy black on the map marked “Ku-ring-gai Local Environmental Plan No 219 (Pymble Business Park) – Sheet 1” deposited in the office of the Council.

30F Interpretation

For the purpose of this Part only, a word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Part.

30G Zoning of land to which Part applies

For the purposes of this Ordinance, land to which this Part applies is within the zone shown on the map marked “Ku-ring-gai Local Environmental Plan No 219 (Pymble Business Park) – Land Zoning Map” deposited in the office of the Council.

30H Zone objectives and Table

- (1) The Table at the end of this clause specifies for each zone:
 - (a) the objectives for development, and
 - (b) development that may be carried out without development consent, and
 - (c) development that may be carried out only with development consent, and
 - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Table at the end of this clause:
 - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
 - (b) a reference to a type of building or other thing does not include (despite any definition applying for the purposes of this Part) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Part.

TABLE

ZONE B7 (BUSINESS PARK)

1 Objectives of zone

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

2 Permitted without consent

Nil

3 Permitted with consent

Business premises; Child care centres, Food and drink premises; Light industries; General industries; Hotel or motel accommodation; Neighbourhood shops; Office premises; Passenger transport facilities; Respite day care centres; Warehouse or distribution centres; Water reticulation systems; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres, Crematoria; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Heavy industrial storage establishments; Helipads; Highway services centres; Home-based child care; Home businesses; Home industries; Home occupations; Home occupations (sex services); Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Restricted premises; Retail premises; Rural industries; Sewerage systems; Tourist and visitor accommodation; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities; Wholesale supplies

30I Height of buildings

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

- (a) to ensure that the height of development is appropriate for the scale of the different centres within the hierarchy of Ku-ring-gai town centres,
- (b) to establish a transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity,

- (c) to enable development with a built form that is compatible with the size of the land to be developed.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the map marked “Ku-ring-gai Local Environmental Plan No 219 (Pymble Business Park) – Height of Buildings Map” deposited in the office of the Council.

30J Floor space ratio

- (1) The objectives of this clause are as follows:
 - (a) to ensure that development density is appropriate for the scale of the different centres within the hierarchy of Ku-ring-gai town centres,
 - (b) to enable development with a built form and density compatible with the size of the land to be developed, its environmental constraints and its contextual relationship,
 - (c) to provide an appropriate correlation between the extent of any residential development and the environmental constraints of a site,
 - (d) to ensure that development density provides a balanced mix of uses in buildings in the business zones.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the map marked “Ku-ring-gai Local Environmental Plan No 219 (Pymble Business Park) – Floor Space Ratio Map” deposited in the office of the Council.

PART V

Consents

*(Miscellaneous (Planning) Repeal and Amendment Act 1979 - Order
Clause deleted vide Government Gazette No 139 of 26 September 1980)*

Submission of plans

31.

*(Miscellaneous (Planning) Repeal and Amendment Act 1979 - Order
Clause deleted vide Government Gazette No 139 of 26th September 1980)*

Consideration of applications generally

32.

Consideration of certain applications

33. In respect of any application for the consent of the responsible authority whether under this Ordinance or under any provision of the Act for consent or approval to the carrying out of development for a purpose referred to in Column IV of the Table to clause 23 of this Ordinance, namely -

Aesthetic appearance

- (a) to the erection of a building, to the carrying out of a work or to the use of land within a Foreshore Scenic Protection Area or within view of any waterway, or adjacent to any county road or main road, railway, public reserve or land reserved for open space or land within Zone No 6(a), 6(b) or 6(c), the responsible authority shall take into consideration the probable aesthetic appearance of such land or of the proposed building or work when used for the proposed purpose and viewed from such waterway, county road or main road, railway, public reserve or any such reserved or zoned land;

Hotels, motels, service stations, car repair stations, places of assembly, industry, etc.

- (b) to the erection or use of an hotel, motel, service station, car repair station, Place of assembly or industrial premises or to the carrying out of any other development likely to cause increased vehicular traffic on any road in the vicinity thereof, the responsible authority shall take into consideration whether, having regard to the proposed use of any such building or development -
- (i) adequate vehicular exits and entrances from or to the site have been provided so that vehicles using such entrances and exits will not endanger persons and vehicles using any such road;
- (ii) space, sufficient to provide for the parking or standing of such number of vehicles as the responsible authority may determine, is provided on the site or on land adjoining the site not being a public road; and

(Clause 33 (b) (iii) omitted by State Environmental Planning Policy (Repeal of Concurrence and Referral Provisions) 2004)

(iii)

- (iv) adequate space has been provided within the site of the building or development for the loading, unloading and fuelling of vehicles and for the picking up and setting down of passengers;

Transport terminals

- (c) to the erection of a building, to the carrying out of a work or to the use of a building, work or land for the purpose of a transport terminal the responsible authority shall take into consideration -

(Clause 33 (c) (i) omitted by State Environmental Planning Policy (Repeal of Concurrence and Referral Provisions) 2004)

(i)

- (ii) the standard of the roads in the locality in relation to the size and weight of the vehicles likely to use the terminal;
- (iii) traffic conditions and facilities generally in the vicinity of the approaches to the terminal;
- (iv) the means of ingress and egress;
- (v) the provision on land other than a public road of space for the parking and standing of vehicles; and
- (vi) the layout of buildings on the site in relation to the provision of space for the parking and standing of vehicles, to the provision of space for the loading unloading or fuelling of vehicles and to the traffic facilities within the site;

Residential flat buildings

- (d) to the erection or use of a residential flat building, the responsible authority shall take into consideration any code for the erection of residential flat buildings adopted by resolution of the Council;

Land in Lot 1 DP 4323

- (e) to the carrying out of development on Lot 1 in Deposited Plan 4323, the responsible authority shall take into consideration the provisions of a Deed dated 12th July 1971, made between R.N.D. Holdings Pty Ltd of the first part, The Council of the Municipality of Ku-ring-gai of the second part and The State Planning Authority of New South Wales of the third part.

*(Clause 34 deleted by Local Environmental Plan No 73
vide Government Gazette No 82 of 29 June 1990)*

Development in residential zones

34.

*(Clause 35 omitted by State Environmental Planning Policy
(Repeal of Concurrence and Referral Provisions) 2004)*

Development by the Crown or public utility undertaking

35.

*(Clause 36 omitted by State Environmental Planning Policy
(Repeal of Concurrence and Referral Provisions) 2004)*

Consultation

36.

*(Miscellaneous (Planning) Repeal and Amendment Act 1979 - Order Clause deleted vide Government
Gazette No 33 of 5 March 1982)*

Consents to be void in certain circumstances

37.

*(Miscellaneous (Planning) Repeal and Amendment Act 1979 - Order
Clause deleted vide Government Gazette No 33 of 5 March 1982)*

Determination of applications

38.

Local Environmental Plan No 5 - "Lourdes Village"

*(Clause 38A added by Local Environmental Plan No 5
vide Government Gazette No 41 of 13 March 1981)*

38A. (1) This clause applies to the land at Killara in the Municipality of Ku-ring-gai, having frontage to Stanhope Road, being Lot 2 DP 611692.

(2) In this clause -

"aged person" means a person aged 60 years or older or the spouse younger than 60 years of a person aged 60 years or older;

"floor" means that space within a building which is situated between one floor level and the floor level next above or if there is no floor above, the ceiling or roof above;

- (3) Development for the purposes of recreation facilities, community centres, libraries, kiosks, doctors' surgeries, dwelling-houses, roads, parking, drainage, utility installations (other than gas holder or generating works) and housing for aged persons which is carried out generally in accordance with the plan referred to in subclause (4) and in accordance with the instructions and regulatory matters referred to in subclause (5) is hereby permitted without consent of the council.
- (4) The development referred to in subclause (3) shall be generally in accordance with the plan marked "Lourdes Village, Killara Site Plan" dated 8th June 1979, and having job number 831105SK.
- (5) Development for the purposes of housing for aged persons shall not be carried out unless -
 - (a) only aged persons or persons engaged in the care of aged persons shall reside on the land;
 - (b) medical facilities are provided on the land and those facilities are available to all people residing on the land;
 - (c) the residential density of the land does not exceed 40 persons per hectare;
 - (d) an erosion and sediment control plan has been prepared in consultation with the Soil Conservation Service of New South Wales, the aforesaid Service has approved of the plan, and the plan is implemented;
 - (e) a landscape plan showing existing vegetation to be retained and new vegetation to be planted, and dealing with the risk of bushfire is prepared by a qualified landscape architect, and approved of by the Department and implemented;
 - (f) a stormwater drainage plan, detailing design assumption and parameters, capacity and size of any retarding basins and outlets and the effect of peak flows is approved of by the Department prior to commencement of construction;
 - (g) the residential component of the development contains -
 - (i) a nursing home having no more than 30 beds;
 - (ii) a hostel having no more than 48 rooms;
 - (iii) no more than 54 one-bedroom self-contained dwellings;
 - (iv) no more than 54 two-bedroom self-contained dwellings;
 - (h) no less than 134 car parking spaces are provided on the land;
 - (i) a fire trail, not less than 4 metres wide is constructed on the land along its southern and eastern boundaries;
 - (j) the height of any building is no greater than 2 floors above the lowest point of natural ground level adjacent to the particular building;

- (k) no less than 5 per cent of the self-contained dwellings incorporate access for wheelchairs to and within the dwelling;
 - (l) the size of each room and the facilities in the nursing home and hostel meet the standards required by the Commonwealth Department of Social Security and the Health Commission of New South Wales (if any);
 - (m) the area of the land upon which buildings are erected does not exceed 20 per cent of the total land, to which this order relates;
 - (n) a trade waste storage area having a minimum floor area of 4 square metres, a minimum height of 2.1 metres and having doors having an opening width of 1 metre, and which is graded and drained to a sewer of the Metropolitan Water Sewerage and Drainage Board, is located adjacent to the service dock of the hostel and nursing home; and
 - (o) a trade waste storage area for each grouping of self-contained dwellings is located adjacent to the internal roadway, such storage area to be capable of being serviced by a garbage collection vehicle.
- (6) Pursuant to section 28(2) of the Environmental Planning and Assessment Act 1979, the operation of -
- (a) section 307(c); or
 - (b) section 314(1)(c),
- of the Act, or Schedule 7 to that Act shall not apply to any development specified in this clause.

(New Clause inserted by Local Environmental Plan No 100 (Business Centres) vide Government Gazette No 102 of 21 August 1992)

Services

38B. The Council is not to grant its consent to the carrying out of any development on land unless:

- (a) a water supply and a drainage area and facilities for the removal and disposal of sewage are available in respect of that land; or
- (b) arrangements satisfactory to the Council and to the Water Board have been made or are required to be made for the provision of that supply and those facilities.

* * * * *

PART VI

General Amenity and Convenience

(Clause 39 omitted by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1 vide Government Gazette No 99 of 6 October 1989)

Places of scientific or historic interest

39.

Foreshore Scenic Protection Areas

40. (1) The Governor, on the application of the Authority and for the purposes of this Ordinance, may by proclamation, declare any land adjacent to any harbour, bay, river, creek, lake, estuary or lagoon to be a Foreshore Scenic Protection Area: Provided that before making any application under this clause the Authority shall consult with the Council.
- (2) Where any land has been declared by proclamation to be a Foreshore Scenic Protection Area the Authority shall cause to be prepared and to be sealed with the seal of the Authority plans showing such land. One plan shall be attached to the scheme map and one shall be forwarded to the Council.

Foreshore building lines

41. (1) The responsible authority may by resolution, fix building lines (in this clause called "foreshore building lines") in respect of any land fronting any bay, river or creek.
- (2) A foreshore building line shall, when fixed by the responsible authority, be marked upon a plan or clearly described in the resolution and such plan or resolution shall be open for inspection by the public during the office hours of the responsible authority.
- (3) A building shall not be erected between such building line and the bay, river or creek in respect of which the line is fixed.
- (4) The responsible authority may alter or abolish any such building line where the levels or depth of the allotment or other exceptional conditions of the site make it necessary or expedient to do so.

Preservation of trees

42. (1) Where it appears to the responsible authority that it is expedient for the purpose of securing amenity or of preserving existing amenities it may for that purpose make an order (hereinafter referred to as a "tree preservation order") and may by like resolution rescind or vary any such order.

- (2) A tree preservation order may prohibit the ringbarking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or trees specified in such order except with the consent of the responsible authority and any such consent may be given subject to such conditions as the responsible authority may think fit.
- (3) Any such order may relate to any tree or trees or to any specified class, type or description of trees on land described in such order and such land may be described particularly or generally by reference to the municipality or any divisions thereof.
- (4) The responsible authority shall forthwith upon the making of a tree preservation order cause notice of the making of such order to be published in the Gazette and in a newspaper circulating in the area in which the land described in the order is situate.
- (5) In any proceedings under this clause it shall be sufficient defence to prove that the tree or trees ringbarked, cut down, topped, lopped, removed, injured or wilfully destroyed, was or were dying or dead or had become dangerous.
- (6) The powers conferred upon the responsible authority by this clause shall not extend to any trees within a State Forest or land reserved from sale as a Timber or Forest Reserve under the Forestry Act 1916.

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PART VII

Special Provisions

*(Clause 43 amended by Local Environmental Plan No 188
vide Government Gazette No 130 of 16 August 2002)*

Minimum size of allotments

43. (1) A dwelling-house shall not be erected in Zone No 2(a) -
- (a) on any allotment which has an area of less than 790 square metres;
 - (b) on any rectangularly shaped allotment which has a width of less than 18 metres;
 - (c) on any irregularly shaped allotment, other than a hatchet-shaped allotment, which has a width of less than 18 metres at a distance of 12.2 metres from the street alignment;
 - (d) on any hatchet-shaped allotment which has an area of less than 1,105 square metres exclusive of the area of the access corridor which shall have a width of not less than 4.6 metres;
 - (e) on any allotment, other than hatchet-shaped allotment, having a frontage to a main road or county road which allotment has a width of less than 27.4 metres at a distance of 12.2 metres from the street alignment.
- (2) A dwelling-house shall not be erected in Zone No 2(b) -
- (a) on any allotment which has an area of less than 836 square metres;
 - (b) on any rectangularly shaped allotment which has a width of less than 18 metres;
 - (c) on any irregularly shaped allotment, other than a hatchet-shaped allotment, which has a width of less than 18 metres at a distance of 12.2 metres from the street alignment;
 - (d) on any hatchet-shaped allotment which has an area of less than 1,170 square metres exclusive of the area of the access corridor which shall have a width of not less than 4.6 metres;
 - (e) on any allotment, other than a hatchet-shaped allotment, having a frontage to a main road or county road which allotment has a width of less than 27.4 metres at a distance of 12.2 metres from the street alignment.

***(Subclause 43(3) amended by Local Environmental Plan No 87
vide Government Gazette No 78 of 23 June 1989)***

- (3) A dwelling-house shall not be erected in Zone No 2(c) -
- (a) on any allotment which has an area of less than 929 square metres;
 - (b) on any rectangularly shaped allotment which has a width of less than 18 metres;
 - (c) on any irregularly shaped allotment, other than a hatchet-shaped allotment, which has a width of less than 18 metres at a distance of 12.2 metres from the street alignment;
 - (d) on any hatchet-shaped allotment which has an area of less than 1,300 square metres exclusive of the area of the access corridor which shall have a width of not less than 4.6 metres;
 - (e) on any allotment, other than a hatchet-shaped allotment, having a frontage to a main road or a county road which allotment has a width of less than 27.4 metres at a distance of 12.2 metres from the street alignment.

***(Subclause 43(3A) added by Local Environmental Plan No 87
vide Government Gazette No 78 of 23 June 1989)***

- (3A) A dwelling-house shall not be erected in Zone No 2(d) or 2(e) -
- (a) on any allotment which has an area of less than 929 square metres; or
 - (b) on any allotment, other than a hatchet-shaped allotment, having a frontage to a main road or a county road, which allotment has a width of less than 27.43 metres at a distance of 12.19 metres from the street alignment.
- (4) A dwelling-house shall not be erected in Zone No 2(g) on any allotment of land which has an area of less than 10,120 square metres and a frontage to a road of less than 36.6 metres.

***(Subclause 43(4A) added by Local Environmental Plan No 37
vide Government Gazette No 18 of 31 January 1986)***

***(Subclause 43(4A)(b), (c) and (d) omitted by Local Environmental Plan No 87
vide Government Gazette No 78 of 23 June 1989)***

- (4A) A dwelling-house shall not be erected in Zone No 2(h) -
- (a) on any allotment which has an area of less than 650 square metres;

- (e) on any allotment, other than a hatchet-shaped allotment, having a frontage to a main road or county road which allotment has a width of less than 27.43 metres at a distance of 12.19 metres from the street alignment.

*(Subclause 43(4B) added by Local Environmental Plan No 87
vide Government Gazette No 78 of 23 June 1989)*

- (4B) A dwelling-house shall not be erected in Zone No 2(a), 2(b), 2(c) or 2(g) on an allotment not having a common boundary to a public road (as defined in the Local Government Act 1919) or not having direct access thereto.

*(Subclause (5) amended by Local Environmental Plan No 37
vide Government Gazette No 18 of 31 January 1986)*

- (5) Nothing in this clause shall operate to prohibit the erection of a dwelling-house in Zone No 2(a), 2(b), 2(c), 2(d), 2(e), 2(g) or 2(h) on any parcel of land which was in existence as a separate parcel of land on the appointed day.

- (6) A residential flat building shall not be erected in Zone No 2(d) -

- (a) on any allotment which has an area of less than 1,208 square metres;
- (b) on any rectangularly shaped allotment which has a width of less than 24.4 metres;
- (c) on any irregularly shaped allotment, other than a hatchet-shaped allotment, which has a width of less than 24.4 metres at a distance of 12.2 metres from the street alignment;
- (d) on any hatchet-shaped allotment which has a width of less than 24.4 metres at the building line, an area of less than 1,672 square metres exclusive of the area of the access corridor which shall have a width of not less than 6.1 metres;
- (e) on any allotment, other than a hatchet-shaped allotment, having a frontage to a main road or county road which allotment has a width of less than 27.4 metres at a distance of 12.2 metres from the street alignment.
- (f) to a height exceeding three storeys.

- (7) A residential flat building shall not be erected in Zone No 2(e) -

- (a) on any allotment which has an area of less than 929 square metres;
- (b) on any rectangularly shaped allotment which has a width of less than 18 metres;

- (c) on any irregularly shaped allotment, other than a hatchet-shaped allotment, which has a width of less than 18 metres at a distance of 12.2 metres from the street alignment;
- (d) on any hatchet-shaped allotment which has a width of less than 18 metres at the building line, an area of less than 1,300 square metres exclusive of the area of the access corridor which shall have a width of not less than 4.6 metres;
- (e) on any allotment, other than a hatchet-shaped allotment, having frontage to a main road or county road which allotment has a width of less than 27.4 metres at a distance of 12.2 metres from the street alignment;
- (f) to a height exceeding two storeys.

*(Subclause 7(A) added by Local Environmental Plan No 37
vide Government Gazette No 18 of 31st January 1986)*

- (7A) A residential flat building or cluster housing shall not be erected in Zone No 2(h) -
 - (a) on any allotment which has an area of less than 929 square metres;
 - (b) on any rectangularly shaped allotment which has a width of less than 18.28 metres;
 - (c) on any irregularly shaped allotment, other than a hatchet-shaped allotment, which has a width of less than 18.28 metres at a distance of 12.19 metres from the street alignment;
 - (d) on any hatchet-shaped allotment which has a width of less than 18.28 metres at the building line an area of less than 1300 square metres exclusive of the area of the access corridor which shall have a width of not less than 4.57 metres;
 - (e) on any allotment, other than a hatchet-shaped allotment, having frontage to a main road or county road which allotment has a width of less than 27.43 metres at a distance of 12.19 metres from the street alignment;
 - (f) to a height exceeding 8 metres, being the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.
- (8) For the purposes of this clause "storey" has the meaning ascribed to it in Part XI of the Act.
- (9) Notwithstanding the provisions of subclauses (1), (2), (3), (4), (6) and (7) of this clause the responsible authority may consent to the erection of a dwelling-house, in the case of subclause (1), (2), (3) or (4) of this clause, or a residential flat building, in the case of subclause (6) or (7) of this clause, on any allotment of land the area of which or the width of which is less than the area or width prescribed by the appropriate subclause but which departs therefrom only to a minor extent.

Dwelling-houses - dual occupancy

*(Clause 43A added by Sydney Regional Environmental Plan No 1
vide Government Gazette No 191 of 19 December 1980)*

*(Clause 43A amended by Local Environmental Plan No 33
vide Government Gazette No 108 of 26 July 1985)*

*(Clause 43A(1) amended by Local Environmental Plan No 37
vide Government Gazette No 18 of 31 January 1986)*

*(Clause 43A deleted by Sydney Regional Environmental Plan No 12 -
Dual Occupancy vide Government Gazette No 104 of 19 June 1987)*

43A.

*(Clauses 43B and 43C added by Local Environmental Plan No 33
vide Government Gazette No 108 of 26 July 1985)*

Subsidiary dwelling-houses

*(Clause 43B deleted by Sydney Regional Environmental Plan No 12 -
Dual Occupancy vide Government Gazette No 104 of 19 June 1987)*

43B.

Suspension of certain laws, etc

*(Clause 43C deleted by Sydney Regional Environmental Plan No 12 -
Dual Occupancy (Amendment No 1)
vide Government Gazette No 179 of 20 November 1987)*

43C.

*(Clause 44 amended by Local Environmental Plan No 188
vide Government Gazette No 130 of 16 August 2002)*

Hotel and motel

44. (1) An hotel shall not be erected on any parcel of land which has an area of less than 9,290 square metres.
- (2) A motel shall not be erected on any parcel of land which has a frontage to a public road of less than 30.5 metres, a width at the building line of less than 30.5 metres and an area of less than 1,858 square metres.

*(Clause 45 amended by Local Environmental Plan No 188
vide Government Gazette No 130 of 16 August 2002)*

Liquid fuel depots

45. A liquid fuel depot having an aboveground storage capacity of 454,600 litres or more of inflammable liquid shall not be established, enlarged or used except with the consent of the responsible authority.

Height of buildings

*(Clause 46 deleted and new Clause 46 added by Local Environmental Plan No 72
vide Government Gazette No 64 of 26 May 1989)*

46. (1) Notwithstanding the provisions of Part III of this Ordinance, a building shall not be erected to a height, across any point of a site, which is greater than 7 metres without the consent of the Council.
- (2) A person shall not erect a dwelling-house or dual occupancy building with a height in excess of 8 metres.
- (3) Subclause (2) does not enable a second dwelling-house erected on an allotment to exceed a height of 3.6 metres in contravention of clause 11 of Sydney Regional Environmental Plan No 12 – Dual Occupancy.
- (4) In this clause -

"Ground level" means the level of a site before development is carried out on the site under this Ordinance.

"Height" in relation to a building, means a distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

Height of buildings - certain land at East Lindfield and East Killara

*(Clause 46A added by Local Environmental Plan No 8
vide Government Gazette No 139 of 18 September 1981)*

*(Clause 46A deleted by Ku-ring-gai (Consolidating) Local Environmental
Plan 1987 vide Government Gazette No 170 of 6 November 1987)*

46A.

*(Clause 47 amended by Local Environmental Plan No 188
vide Government Gazette No 130 of 16 August 2002)*

Restriction on excavations

47. Where immediately before 27 June 1951, any land within Zone No 2(a), 2(b), 2(c), 2(d), 2(e), 2(f) or 2(g) was used for the purpose of winning extractive materials, no excavation for that purpose shall be made, opened or extended within 15.2 metres of adjoining land which is within Zone No 2(a), 2(b), 2(c), 2(d), 2(e), 2(f) or 2(g) and was not, immediately prior to 27 June 1951, in the same ownership.

Alignment of main roads

48. The council shall not, without the approval of the Commissioner for Main Roads, cause to be aligned or realigned any main road or any other road which the Commissioner for Main Roads has notified as a proposed main road.

*(Clause 49 omitted by State Environmental Planning Policy
(Repeal of Concurrence and Referral Provisions) 2004)*

Junctions and intersections

- 49.

*(Clause 50 amended by Local Environmental Plan No 188
vide Government Gazette No 130 of 16 August 2002)*

Building lines along county and main roads

50. Notwithstanding any other provision of this Ordinance a residential building shall not be erected in Zone No 2(d) or 2(e) closer than 9.1 metres to a county road or a main road.

*(Clause 51 omitted by Local Environmental Plan No 100 (Business Centres)
vide Government Gazette No 102 of 21 August 1992)*

Loading and unloading facilities

- 51.

*(Clause 51A added by Local Environmental Plan No 18
vide Government Gazette No 65 of 29 April 1983)*

*(Clause 51A omitted by Local Environmental Plan No 100 (Business Centres)
vide Government Gazette No 102 of 21 August 1992)*

Erection and maintenance of buildings in Zone No 3(c1)

- 51A.

*(Clause 52 deleted and new Clause 52 inserted by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

Advertisements

52. Notwithstanding any of the other provisions of this Ordinance, the erection of one advertising structure range not exceeding 0.24m² in area for the purpose of the display of an advertisement or sign to indicate the purpose for which the premises upon which the structure is erected are used is permissible without the consent of the Council.

*(Clause 53 amended by Local Environmental Plan No 188
vide Government Gazette No 130 of 16 August 2002)*

Residential flat buildings

53. (1) The responsible authority shall not consent to the erection or use of a building for the purpose of a residential flat building unless provision is made within the site for -
- (a) vehicular parking space of an area of not less than 5.5 metres by 2.4 metres for each flat within the building; and
- (b) proper vehicular access to such parking space.
- (2) For the purposes of subclause (1) of this clause, "vehicular parking space" includes any garage or court available for use by vehicles.

*(Clause 53A added by Local Environmental Plan No 15
vide Government Gazette No 168 of 3 December 1982 - also Schedule 6)*

*(Clause 53A deleted by Ku-ring-gai (Consolidating) Local Environmental
Plan 1987 vide Government Gazette No 170 of 6 November 1987)*

Development of land at 5-9 Cowan Road, St Ives

53A.

*(Clause 53AB added by Local Environmental Plan No 26
vide Government Gazette No 152 of 4 November 1983 - also Schedule 6)*

*(Clause 53AB deleted by Ku-ring-gai (Consolidating) Local Environmental
Plan 1987 vide Government Gazette No 170 of 6 November 1987)*

Development of land at 5 Kissing Point Road, Turramurra

53AB.

*(Clause 53B added by Local Environmental Plan No 16
vide Government Gazette No 168 of 3 December 1982 - also Schedule 6)*

*(Clause 53B deleted by Ku-ring-gai (Consolidating) Local Environmental
Plan 1987 vide Government Gazette No 170 of 6 November 1987)*

Development of land at Lot 2 DP 377453, Telegraph Road, Pymble

53B.

*(Clause 53C added by Local Environmental Plan No 38
vide Government Gazette No 155 of 15 November 1985)*

*(Clause 53C deleted by Ku-ring-gai (Consolidating) Local Environmental
Plan 1987 vide Government Gazette No 170 of 6 November 1987)*

Development of land at 702-714 Pacific Highway and 20 Cecil Street, Killara

53C.

*(Clause 54 amended by Local Environmental Plan No 188
vide Government Gazette No 130 of 16 August 2002)*

Service stations or car repair stations

54. (1) A building or work shall not be erected or used and land shall not be used for the purpose of a service station or car repair station unless -

- (a) the site is more than 91.4 metres from the junction or intersection of a county road or a main road with another county road or a main road;
- (b) where the site has frontage to a county road or a main road;

*(Clause 54 (1) (b) (i) omitted by State Environmental Planning Policy
(Repeal of Concurrence and Referral Provisions) 2004)*

- (i)
- (ii) where the site is not a corner lot the frontage to such road is not less than 38.1 metres or, where the site is a corner lot, the frontage to such road is not less than 30.5 metres;
- (c) where the site has frontage to a road other than a county road or a main road such frontage is not less than 30.5 metres;
- (d) the width of a vehicular crossing over a footpath is not more than 9.1 metres;
- (e) any vehicular crossing over a footpath is not closer than 6.1 metres to a road intersection;
- (f) separate entrances to and exits from the site are provided and such entrances and exits are separated by physical barriers constructed on the road alignment

and so identified by suitable signs readily visible to persons using the adjoining road or entering upon or leaving the site;

- (g) where the site is a corner lot and if the responsible authority so requires, separate entrances and exits are provided to and from each of the adjoining roads and a physical barrier is erected so that a vehicle entering the site must, when leaving it, use an exit leading only to the road from which entrance was gained.
- (2) A building or work shall not be erected or used and land shall not be used for the purpose of a service station unless in addition to the other requirements of this clause -
- (a) inlets to bulk fuel storage tanks are so situated on the site as to ensure that tankers, while discharging fuel into such tanks, shall stand wholly within the site;
 - (b) fuel pumps are within the site and not closer than 3.7 metres to the road alignment;
 - (c) the layout of the site is such as to facilitate the movement of vehicles entering upon or leaving the site with the flow of traffic on the adjoining road;
 - (d) vehicular access to or from the site from or to an adjoining road is situated not closer than 24.4 metres to any traffic lights on such road; and
 - (e) the site is suitably landscaped to the satisfaction of the responsible authority.

*(Clause 55 amended by Local Environmental Plan No 188
vide Government Gazette No 130 of 16 August 2002)*

Drive-in theatres

55. A drive-in theatre shall not be erected or used unless the following conditions are complied with -
- (a) a vehicular entrance to or exit from a drive-in theatre shall not be located within 91.4 metres of a county road or main road;
 - (b) within the site of a drive-in theatre there shall be a vehicular driveway, at least 61 metres in length and 21.3 metres in width, leading from the entrance to the site to the ticket office;
 - (c) the screen of a drive-in theatre shall be so located or protected that no image projected thereon shall be visible and identifiable from a county or a main road;

*(Clause 55 (d) omitted by State Environmental Planning Policy
(Repeal of Concurrence and Referral Provisions) 2004)*

- (d)

Controlled access roads

56. (1) The Governor may proclaim any county road or any part of a county road to be a controlled access road and in the like manner amend or revoke any such proclamation.
- (2) A copy of any proclamation made under subclause (1) of this clause shall be published in the Gazette and in a newspaper circulating in the locality in which the controlled access road is situated and shall be served on the responsible authority.
- (3) A person shall not enter or leave a controlled access road except by a means of access or route provided for that purpose.
- (4) The Council or any person shall not, without the consent of the responsible authority, open, construct, form or lay out any means of access to or from a controlled access road:

Provided that the responsible authority shall not without the approval of the Commissioner for Main Roads consent to the opening, construction, forming or laying out of any means of access to or from a controlled access road which is or which may be a main road:

Provided also that in the event of the Commissioner for Main Roads refusing in any case to approve, a difference within the meaning of section 654 of the Act shall be deemed to have arisen and the responsible authority or the Commissioner for Main Roads may submit such difference to the Minister for determination under that section.

- (5) The responsible authority may erect and maintain fences or posts across any side road or other means of access for the purpose of preventing access to a controlled access road.
- (6) A person shall not drive any loose sheep, cattle, horses or other animals on or along a controlled access road.
- (7) The provisions of this clause shall not apply to or in respect of any main road which is proclaimed a motorway under Part VAA of the Main Roads Act 1924.

Restriction of ribbon development

57. (1) The provisions of this clause shall apply to any county road or to any main road or to any part of a county road or main road to which road or part such provisions are applied by the Governor by proclamation.
- (2) The Governor, in respect of any land fronting, adjoining or adjacent to a road to which the provisions of this clause apply, may by proclamation -
- (a) prohibit the erection of buildings or any specified class of buildings or buildings intended for use for specified purposes within such distance of the road as may be set out in the proclamation.
- (b) direct that, in respect of the erection of buildings or any specified class of buildings or buildings intended for use for specified purposes within such

distance of the road as may be set out in the proclamation, unless the Authority certifies to the responsible authority that it is satisfied that either –

- (i) the character of the building or use to which the building is to be put is such as not to be likely to cause traffic congestion on the road; or
- (ii) satisfactory arrangements have been made for limiting traffic congestion on the road;

the responsible authority shall as a condition of its consent to the erection of any such building require the provision and maintenance of such means of entrance and egress and of such accommodation for the loading or unloading or parking of vehicles or picking up and setting down of passengers or the fuelling of vehicles as may be determined by the Authority for the purpose of limiting such congestion;

- (c) prohibit the making of any permanent excavation within such distance of the road as may be set out in the proclamation;
- (d) prohibit the subdivision of any land which provides for the creation of separate parcels of land with a length of frontage to the road less than that specified in the proclamation.

For the purposes of this subclause "building" has the meaning ascribed to it in paragraph (b) of subsection three of section 342G of the Act.

(3) Any proclamation made under subclause (2) of this clause -

- (a) may apply generally to all buildings or to all buildings other than those mentioned in the proclamation or particularly to any specified class of buildings or buildings intended for use for specified purposes;
- (b) may specify different distances for different buildings or for different classes of buildings or buildings intended for use for different purposes or different distances for different roads or different distances for different parts of the same road.

(4) Any such proclamation may be amended, varied or revoked by a similar proclamation.

(5) A proclamation made under this clause shall be published in the Gazette and in a newspaper circulating in the locality in which the road is situated.

A copy of such proclamation shall be served on the responsible authority.

(6) Upon the publication of any proclamation made under subclause (2) of this clause, the operation of any instrument giving consent or approval under Part XIIA of the Act to the erection of a building or the making of a permanent excavation or the subdivision of land which, if erected, made or carried out after the publication of such proclamation would be in contravention thereof, shall be deemed to have been suspended to the extent of its inconsistency with this clause but such suspension shall not prevent the completion of the erection of a building or the making of a permanent excavation which was substantially commenced but not completed before the publication of such proclamation.

Land use for commercial or industrial purposes

58. (1) This clause shall apply to all land having a frontage to a main or county road used or to be used for commercial or industrial purposes whether or not it forms the site of a building.
- (2) Notwithstanding anything contained in Part III of this Ordinance -
- (a) where there is no building on the land or the only building thereon is of a minor character, such land shall not be used for the storage, sale or display of goods or for advertising purposes without the consent of the responsible authority;
 - (b) where the land forms the site of a building, other than one of a minor character, the land between the road frontage and the building alignment shall not be used for the storage, sale or display of goods or for advertising purposes without the consent of the responsible authority.

Subdivision generally

*(New Clause 58A added by Local Environmental Plan No 72
vide Government Gazette No 64 of 26 May 1989)*

- 58A. A person shall not subdivide land to which this Ordinance applies except with the consent of the Council.

*(New Clause 58B added by Local Environmental Plan No183
vide Government Gazette No 54 of 20 March 2001)*

Subdivision requirements for dwelling-house lots

- 58B (1) This clause applies to land within Zone No.2(a), 2(b), 2(c), 2(d), 2(e), 2(g) and 2(h).
- (2) In this clause, **lot** means a lot occupied or intended to be occupied by a single dwelling-house.
- (3) Land to which this clause applies is not be subdivided unless each separate lot created:
- (a) in the case of land within Zone No.2(a):
 - (i) as to a lot, other than a hatchet-shaped (battleaxe) lot not having frontage to a main road or county road – has an area of not less than 790 square metres and also a width not less than 18 metres at a distance of 12.2 metres from the street alignment,
 - (ii) as to a lot, other than a hatchet-shaped (battleaxe) lot having frontage to a main road or county road – has an area of not less than 790 square metres and also a width not less than 27.4 metres at a distance of 12.2 metres from the street alignment,
 - (iii) as to a hatchet-shaped (battleaxe) lot - has an area of not less than 1105 square metres exclusive of the access corridor, which access corridor is to have a width of not less than 4.6 metres,

- (b) in the case of land within Zone No.2(b):
- (i) as to a lot, other than a hatchet-shaped (battleaxe) lot not having frontage to a main road or county road – has an area of not less than 836 square metres and also a width not less than 18 metres at a distance of 12.2 metres from the street alignment,
 - (ii) as to a lot, other than a hatchet-shaped (battleaxe) lot having frontage to a main road or county road – has an area of not less than 836 square metres and also a width not less than 27.4 metres at a distance of 12.2 metres from the street alignment,
 - (iii) as to a hatchet-shaped (battleaxe) lot – has an area of not less than 1170 square metres exclusive of the access corridor, which access corridor is to have a width of not less than 4.6 metres,
- (c) in the case of land within Zone No.2(c):
- (i) as to a lot, other than a hatchet-shaped (battleaxe) lot not having frontage to a main road or county road – has an area of not less than 929 square metres and also a width not less than 18 metres at a distance of 12.2 metres from the street alignment,
 - (ii) as to a lot, other than a hatchet-shaped (battleaxe) lot having frontage to a main road or county road – has an area of not less than 929 square metres and also a width not less than 27.4 metres at a distance of 12.2 metres from the street alignment,
 - (iii) as to a hatchet-shaped (battleaxe) lot – has an area of not less than 1300 square metres exclusive of the access corridor, which access corridor is to have a width of not less than 4.6 metres,
- (d) in the case of land within Zones No.2(d) and 2(e):
- (i) as to a lot, other than a hatchet-shaped (battleaxe) lot not having frontage to a main road or county road – has an area of not less than 929 square metres and also a width not less than 27.4 metres at a distance of 12.2 metres from the street alignment,
 - (ii) as to a lot, other than a hatchet-shaped (battleaxe) lot having frontage to a main road or county road – has an area of not less than 929 square metres and also a width not less than 27.4 metres at a distance of 12.2 metres from the street alignment,
 - (iii) as to a hatchet-shaped (battleaxe) lot – has an area of less than 1300 square metres exclusive of the access corridor, which access corridor is to have a width of not less than 4.6 metres,

- (e) in the case of land within Zone No.2(g) – has an area of not less than 1.012 hectares (10,120 square metres) and a frontage of not less than 36.6 metres,
- (f) in the case of land within Zone No.2(h),
 - (i) as to a lot, other than a hatchet-shaped (battleaxe) lot not having frontage to a main road or county road – has an area of not less than 650 square metres and also a width not less than 18 metres at a distance of 12.2 metres from the street alignment,
 - (ii) as to a lot, other than a hatchet-shaped (battleaxe) lot having frontage to a main road or county road – has an area of not less than 650 square metres and also a width not less than 27.4 metres at a distance of 12.2 metres from the street alignment,
 - (iii) as to a hatchet-shaped (battleaxe) lot – has an area of not less than 1105 square metres exclusive of the access corridor, which access corridor is to have a width of not less than 4.6 metres.
- (4) Land to which this clause applies must not be subdivided for the purpose of dwelling-houses unless each separate lot created has a boundary to a public road.
- (5) This clause does not apply to a subdivision creating two adjoining lots if the dwelling-houses on those lots are lawful because of a consent granted pursuant to *Sydney Regional Environmental Plan No.12 – Dual Occupancy or State Environmental Planning Policy No.53 – Metropolitan Residential Development* before or after the commencement of this clause.

Subdivisions and new roads

- 59. Where the scheme provides for the opening of a new road, a subdivision of land of which such road forms part shall not be made unless it makes provision for the opening of such road in reasonable conformity with the road design shown on the scheme map.

Floor space of buildings

- 60. (1) In each of the zones specified in Column I of the Table to this clause, the ratio of the total floor space area of any building to the area of the site upon which the building is or is proposed to be erected (which may be referred as the 'floor space ratio', shall not be greater than that set out opposite such zone in Column II of the Table:

TABLE

*(Zone No 3(c1) added by Local Environmental Plan No 18
vide Government Gazette No 65 of 29 April 1983)*

*(Zone No 2(h) added by Local Environmental Plan No 37
vide Government Gazette No 18 of 31st January 1986)*

*(Zones No 3(a), 3(b), 3(c), 3(c1), 3(d) and 3(e) omitted by
Local Environmental Plan No 100 (Business Centres)
vide Government Gazette No 102 of 21 August 1992)*

Column I	Column II
Zone No 2(d)	0.85:1
Zone No 2(e)	0.50:1
Zone No 2(h)	0.40:1

*(Clause 60(2) amended by Local Environmental Plan No 188
vide Government Gazette No 130 of 16 August 2002)*

- (2) For the purposes of subclause (1) of this clause the total floor space area of any building shall not include:
- (a) the area of any car parking space in the building provided to meet the standards required by the responsible authority (but not such space provided in excess of such standards) or any internal access thereto;
 - (b) the area occupied by lift motor and mechanical plant rooms;
 - (c) the area of private balconies not enclosed above a height of 1.2 metres from the floor on at least one side.
- (3) For the purposes of this clause -
- "floor space"** includes all wall thicknesses, ducts, vents, corridors, stair-cases and lift wells.

Development of land within Zone No 6(a)

*(Clause 60A added by Local Environmental Plan No 42
vide Government Gazette No 142 of 12 September 1986)*

- 60A. The council shall not consent to the carrying out of development on land owned or controlled by the council and within Zone No 6(a) unless the council has made an assessment of -

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

Development of land on corner of Eastern and Gilroy Roads, Turramurra

*(Clause 60AA added by Local Environmental Plan No 66
vide Government Gazette No 110 of 1 July 1988)*

- 60AA(1) This Clause applies to the land situated at the corner of Eastern Road and Gilroy Road, Turramurra, as shown edged heavy black on the map marked "Ku-ring-gai Local Environmental Plan No 66" deposited in the office of the Council.
- (2) Notwithstanding any other provisions of this Ordinance -
- (a) the land to which this clause applies may, with the consent of the Council be developed for the purposes of a baby health centre; and
 - (b) that part of the land to which this clause applies shown cross hatched on the map referred to in subclause (1) may with the consent of Council, be developed for the purposes of a child care centre.

Land at Carlyle Road, East Lindfield

*(Clause 60AB added by Local Environmental Plan No 84
vide Government Gazette No 85 of 6 July 1990)*

- 60AB(1) This clause applies to the land situated in Crown Reserve No 100170, and known as No.2C Carlyle Road, East Lindfield.
- (2) Despite any other provisions of this Ordinance, the land to which this clause applies may, with the consent of the Council, be developed for the purposes of a child care centre.

Subdivision of certain land in Boomerang Street, Turramurra

*(Clause 60B added by Ku-ring-gai (Consolidating) Local Environmental
Plan 1987 vide Government Gazette No 170 of 6 November 1987)*

- 60B (1) This clause applies to Lot 1 DP 259871, Boomerang Street, Turramurra.
- (2) A person shall not subdivide land to which this plan applies.

Built-upon area of land at 9-15 Curagul Road, North Turramurra

*(Clause 60BA added by Local Environmental Plan No 131
vide Government Gazette No 24 of 21 January 1994)*

- 60BA(1) This clause applies to land situated at 9-15 Curagul Road, North Turramurra, shown coloured light scarlet with dark red edging and lettered "2(h)", and partly marked with black cross hatching, on the map marked "Ku-ring-gai Local Environmental Plan No 131" deposited in the office of the Council.
- (2) Notwithstanding any other provisions of this Ordinance, the maximum built-upon area of the land to which this clause applies is 50 per cent.
- (3) For the purpose of this clause, "built-upon area" has the same meaning as in clause 60C(4).

Built-upon area of land at 2 and 4 Mona Vale Road, Pymble.

*(Clause 60BB added by Local Environmental Plan No 137
vide Government Gazette No 113 of 2 September 1994)*

- 60BB(1) This clause applies to land situated at 2 and 4 Mona Vale Road, Pymble, shown coloured light scarlet with dark red edging and lettered "2(h)" on the map marked "Ku-ring-gai Local Environmental Plan No 137" deposited in the office of the Council.
- (2) Notwithstanding any other provisions of this Ordinance, the maximum built-upon area of the land to which this clause applies is 50 per cent.
- (3) For the purposes of this clause, "built-upon area" has the same meaning as in clause 60C(4).

Built-upon area

*(Clause 60C added by Local Environmental Plan No 72
vide Government Gazette No 64 of 26 May 1989)*

*(Clause 60C omitted and new Clause 60C added by Local Environmental
Plan No 94 vide Government Gazette No 114 of 11 September 1992)*

*(Clause 60C (1) and (2) omitted and new Clause 60C (1), (2) and (2A) inserted by
Local Environmental Plan No 180 vide Government Gazette No 168 of 22 December 2000)*

- 60C (1) This clause applies to any land on which a dwelling-house is, or is proposed to be erected or extended, or on which development ancillary to the dwelling has been, or is proposed to be, carried out.
- (2) The maximum built-upon area of land to which this clause applies is 60%.
- (2A) However, if exempt or complying development is carried out on the land, the maximum built-upon area is 50%.

- (3) Subclause (2) does not prevent the carrying out of development in respect of which an application under the Environmental Planning and Assessment Act 1979 or the Local Government Act 1919 has been lodged with the Council and which has not been determined by the Council prior to the date upon which Ku-ring-gai Local Environmental Plan No 94 was published in the Gazette.

- (4) In this clause -

"Built-upon area" means the area of a site containing any built structure (whether covered or uncovered), any building, carport, terrace, pergola, hard-surface recreation area, swimming pool, tennis court, driveway, parking area or any like structure, but excluding minor landscape features.

Development of Land at 324-346 Mona Vale Road, St Ives, for purposes of residential flat buildings.

*(Clause 60D added by Local Environmental Plan No 125
vide Government Gazette No 42 of 4 March 1994)*

- 60D. (1) This clause applies to land situated at 324-326 Mona Vale Road, St Ives, as shown edged heavy black on the map marked "Ku-ring-gai Local Environmental Plan No. 125" deposited in the office of the Council.
- (2) For the purposes of developing the land to which this clause applies for residential flat buildings the whole of the land is taken to be a single allotment and to be in Zone No. 2(h).
- (3) Despite any other provision of this Ordinance, a person must not carry out any development on that part of the land to which this clause applies as is coloured light scarlet with dark red edging on the relevant map where that development would increase the built-upon area of the land above 50 per cent or, where the existing built-upon area of the land exceeds 50 per cent, would increase the built-upon area.
- (4) In this clause, **"built upon area"** has the same meaning as in clause 60C (4).

Development of land at 803-805 Pacific Highway, Gordon for the purposes of residential flat buildings.

*(Clause 60E added by Local Environmental Plan No 138
vide Government Gazette No 99 of 29 July 1994)*

- 60E. (1) This clause applies to land situated at 803-805 Pacific Highway, Gordon, being Lot 2, D.P. 825602, and Lot 10, D.P. 822282, as shown stippled on the map marked "Ku-ring-gai Local Environmental Plan No.138" deposited in the office of the Council.
- (2) Notwithstanding any other provisions of this Ordinance -
- (a) the land to which this clause applies may, with the consent of the Council, be developed for the purpose of residential flat buildings with a floor space ratio not exceeding 0.85:1; and

- (b) the maximum built-upon area of the land to which this clause applies is 50 per cent.
- (3) In this clause, "**built-upon area**" has the same meaning as in clause 60C(4).

Development of Land at 414 Pacific Highway, Lindfield, for purpose of residential flat buildings.

*(Clause 60F added by Local Environmental Plan No 179
vide Government Gazette No 42 of 21 May 1999)*

- 60F. (1) This clause applies to land situated at 414 Pacific Highway, Lindfield, being part Lots 1 and 2, D.P.3233, as shown coloured light scarlet with dark red edging and lettered 2(d) on the map marked "Ku-ring-gai Local Environmental Plan No.179" deposited in the office of the Council.
- (2) Notwithstanding any other provisions of this Ordinance, the land to which this clause applies may, with the consent of the Council, be developed for the purposes of residential flat buildings with a floor space ratio not exceeding 1.0:1.
- (3) In this clause, "floor space ratio" has the same meaning as in clause 60.

Development of Land at corner of Bobbin Head Road and Murrua Road, North Turramurra

*(Clause 60G added by Local Environmental Plan No 190
vide Government Gazette No 72 of 12 April 2002.)*

- 60G. (1) This clause applies to Lots 351 and 352, DP 455848, at the corner of Bobbin Head Road and Murrua Road, North Turramurra, as shown coloured light scarlet with dark red edging and lettered 2(c) on the map marked "Ku-ring-gai Local Environmental Plan No.190" deposited in the office of the Council.
- (2) Despite any other provision of this Ordinance, any allotment of land to which this clause applies that fronts Bobbin Head Road may have a minimum width of not less than 22 metres

Development in Zone No 2(f)

*(Clause 61 deleted by Local Environmental Plan No 180
vide Government Gazette No 168 of 22 December 2000)*

*(Clause 61A(1) added by Local Environmental Plan No 10
vide Government Gazette No 141 of 25 September 1981)*

- 61A (1) This clause applies to the land being Lot 2 DP 609871, College Crescent and Killeaton Street, St Ives.

*(Clause 61A(1) added to by Local Environmental Plan No 13
vide Government Gazette No 79 of 11 June 1982)*

and the land being Lots 1-4 inclusive DP 31602, Vernon Street, South Turramurra, as shown edged heavy black on the map marked "Ku-ring-gai Local Environmental Plan No 13", deposited in the office of the Council;

*(Subclause 61A(2) added by Local Environmental Plan No 10
vide Government Gazette No 141 of 25 September 1981)*

- (2) Notwithstanding any other provision of this Ordinance, the responsible authority shall not grant consent to the carrying out of development on land to which this clause applies where the development-
- (a) will result in the construction of a building which is more than two storeys above ground level; or
 - (b) is for the purpose of the establishment of a hospital.

*(Subclause 61A(3) added by Local Environmental Plan No 13
vide Government Gazette No 79 of 11 June 1982)*

- (3) The subdivision of land, being lots 1-4, inclusive DP 31602, Vernon Street, South Turramurra, into more than 4 allotments is prohibited.

Masada High School

*(Clause 61B added by Local Environmental Plan No 14
vide Government Gazette No 126 of 17 September 1982)*

*(Clause 61B(1) amended by Local Environmental Plan No 55
vide Government Gazette No 180 of 9 December 1988)*

- 61B (1) This clause applies to land being Lot 8 DP 709055, and Lot 2 DP 616326, Link Road, St Ives and Lot 3 DP 616326, College Crescent, St Ives.
- (2) Notwithstanding any other provision of this Ordinance, the land to which this clause applies may, with the consent of the Council, be developed for the purpose of an educational establishment accommodating not more than 600 students.

- (3) Where land to which this clause applies is used for the purposes of an educational establishment, the facilities of the establishment may, with the consent of the council, be used for the purposes of meeting rooms, public halls, public libraries, sport or recreation or for any other community purpose, whether or not any such use is a commercial use of the land.

*(Clauses 61B(3A) & 61B(3B) added by Local Environmental Plan No 55
vide Government Gazette No 180 of 9 December 1988)*

- (3A) Notwithstanding subclause (3), development may only be carried out on Lot 3, DP 616326, for sporting and recreation purposes and for the erection and use of sporting and recreational facilities ancillary thereto and for parking in connection therewith.
- (3B) For the purposes of subclause (3A), "sporting and recreational facility" means a building or place used for sport, or recreation (such as cricket, table tennis, tennis, netball, squash, swimming, gymnastics) or any other building or place used for sport or recreation, but does not mean a building or place used for the purposes of commercial premises or as a place of public assembly.

*(Clause 61B(4) amended by Local Environmental Plan No 55
vide Government Gazette No 180 of 9 December 1988)*

- (4) Development for the purposes of vehicular access between Link Road and College Crescent shall not be permitted on the land to which this clause applies.
- (5) The land to which this clause applies shall not be developed pursuant to this clause unless a minimum of 12,276 square metres of outdoor playground space is provided at all times for the use of students attending the educational establishment.

*(Clause 61B(6) omitted by Local Environmental Plan No 55
vide Government Gazette No 180 of 9 December 1988)*

- (6)

*(Clauses 61BA and 61BB added by Local Environmental Plan No 37
vide Government Gazette No 18 of 31 January 1986)*

Mixed business

- 61BA(1) This clause applies to any land which is within Zone No 2(h).
- (2) The consent authority shall not consent to the carrying out of development for the purposes of a mixed business on land within a walking distance of 500 metres from any other premises used for the purposes of a mixed business or a shop or commercial premises regardless of the zoning of those other premises.

Land designated "Restricted Development"

- 61BB(1) This clause applies to any land which is within Zone No 2(h) and which is designated "restricted development" and marked with black cross hatching on the scheme map.
- (2) Development on land to which this clause applies shall not be carried out where, in the opinion of the Council -
- (a) the vegetation, topography or distinctive features of that land are likely to be adversely affected thereby; or
 - (b) the land is necessary for the purposes of fire or flood mitigation or drainage retention, except in so far as particular development may be compatible with or assist these purposes.
- (3) In this clause "development", in relation to land, includes-
- (a) the erection of any structure;
 - (b) subdivision;
 - (c) the erection of any fence on that land;
 - (d) the removal of soil or rock from the land;
 - (e) the deposit of soil or rock or any other matter on the land; and
 - (f) the destruction or removal of any tree or other vegetation on the land.

Conservation Area (Retail)

*(Clause 61C added by Local Environmental Plan No 23
vide Government Gazette No 6 of 13 January 1984)*

*(Clause 61C amended by Local Environmental Plan No 45
vide Government Gazette No 16 of 23 January 1987)*

*(Clause 61C omitted by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 1 vide Government Gazette No 99 of 6 October 1989)*

61C

*(Clause 61D added by Local Environmental Plan No 45
vide Government Gazette No 16 of 23 January 1987)*

*(Clause 61D omitted and new Clause added by
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1
vide Government Gazette No 99 of 6 October 1989)*

*(Clauses 61D-61H omitted and new Clause added by
Ku-ring-gai Local Environmental Plan No218
vide LW 5 July 2013)*

Heritage conservation

61D Heritage conservation

Note. Heritage items (if any) are listed and described in Schedule 7. Heritage conservation areas (if any) are shown on the Heritage Conservation Areas Map as well as being described in Schedule 7.

(1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Ku-ring-gai,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 7 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land:

- (i) on which a heritage item is located or that is within a heritage conservation area, or
- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) When consent not required

However, development consent under this clause is not required if:

- (a) the applicant has notified the Council of the proposed development and the Council has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) Effect of proposed development on heritage significance

The Council must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The Council may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The Council may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

The Council must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) Aboriginal places of heritage significance

The Council must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) Demolition of nominated State heritage items

The Council must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Conservation incentives

The Council may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the Council is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the Council, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

Development for certain additional purposes

(Clause 61I added by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1 vide Government Gazette No 99 of 6 October 1989)

- 61I (1) Nothing in this Ordinance prevents a person, with the consent of the Council, from carrying out development on land referred to in Schedule 8, for a purpose specified in relation to that land in that Schedule, subject to such conditions, if any, as are specified.
- (2) Subclause (1) does not affect the application, to or in respect of development to which that subclause applies, of such of the provisions of this Ordinance as are not inconsistent with that subclause or with a consent granted by the Council in respect of the development.

Advertisement and notification of certain development applications

(Clause 61J added by Local Environmental Plan No 73 vide Government Gazette No 82 of 29 June 1990)

- 61J The provisions of sections 84, 85, 86, 87(1) and 90 of the Environmental Planning and Assessment Act 1979 apply to and in respect of -
- (a) development for the purposes of housing for aged or disabled persons, a place of public worship or a residential flat building; and
 - (b) development within a residential zone for the purposes of a child care centre, club, hospital, motel, place of public assembly, professional consulting rooms, school or existing use within the meaning of Division 2 of part 4 of the Act,

in the same way as those provisions apply to and in respect of designated development.

Classification and reclassification of public land as operational

(Clause 61K added by Local Environmental Plan No 140 vide Government Gazette No 105 of 1 September 1995)

(Clause 61K omitted and new Clause added by Ku-ring-gai Local Environmental Plan No 216 published LW 30 March 2012)

61K Classification and reclassification of public land

- (1) The objective of this clause is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.

Note: Under the *Local Government Act 1993*, “public land” is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act*

1993. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.
- (2) The public land described in Part 1 or Part 2 of Schedule 10 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
 - (3) The public land described in Part 3 of Schedule 10 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
 - (4) The public land described in Part 1 of Schedule 10:
 - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
 - (5) The public land described in Part 2 of Schedule 10, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
 - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 10, and
 - (b) any reservations that except land out of the Crown grant relating to the land, and
 - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).
- Note:** In accordance with section 30 (2) of the *Local Government Act 1993*, the approval of the Governor to subclause (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 10.

Biodiversity protection

*(Clause 61L added by Ku-ring-gai Local Environmental Plan No 218
vide LW 5 July 2013)*

61L Biodiversity protection

- (1) The objective of this clause is to protect, maintain and improve the diversity and condition of native vegetation and habitat, including by:
 - (a) protecting the biological diversity of native fauna and flora, and
 - (b) protecting the ecological processes necessary for their continued existence, and
 - (c) encouraging the recovery of threatened species, communities, populations and their habitats, and
 - (d) protecting, restoring and enhancing biodiversity corridors.
- (2) This clause applies to land identified as “Areas of Biodiversity Significance” on the Natural Resource Biodiversity Map.
- (3) Before granting development consent for development on land to which this clause applies, the Council must consider:
 - (a) the impact of the proposed development on the following:
 - (i) any native vegetation community,
 - (ii) the habitat of any threatened species, population or ecological community,
 - (iii) any regionally significant species of fauna, flora or habitat,
 - (iv) any biodiversity corridor,
 - (v) any wetland,
 - (vi) the biodiversity values within any reserve,
 - (vii) the stability of the land, and

- (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development, and
 - (c) any opportunity to restore or enhance remnant vegetation, habitat and biodiversity corridors.
- (4) Development consent must not be granted to development on land to which this clause applies unless the Council is satisfied that:
- (a) the development is consistent with the objectives of this clause, and
 - (b) the development is designed, sited and will be managed to avoid any adverse environmental impact, or, if that impact cannot be reasonably avoided by adopting feasible alternatives:
 - (i) the development minimises disturbance and adverse impacts on remnant vegetation communities, habitat and threatened species and populations, and
 - (ii) measures have been considered to maintain native vegetation and habitat in parcels of a size, condition and configuration that will facilitate biodiversity protection and native fauna and flora movement through biodiversity corridors, and
 - (iii) the development avoids clearing steep slopes and facilitates the stability of the land, and
 - (iv) measures have been considered to achieve no net loss of significant vegetation or habitat.
- (5) In this clause, **biodiversity corridor** means an area to facilitate the connection and maintenance of native fauna and flora habitats within the urban landscape, which may be broken by roads and other urban elements, and may include remnant trees and associated native and exotic vegetation.

Riparian land and waterways

*(Clause 61M added by Ku-ring-gai Local Environmental Plan No 218
vide LW 5 July 2013)*

61M Riparian land and waterways

- (1) The objective of this clause is:
 - (a) to protect and improve the following:
 - (i) water quality within waterways,
 - (ii) the stability of the bed and banks of waterways,
 - (iii) aquatic and riparian species, communities, populations and habitats,
 - (iv) ecological processes within waterways and riparian lands,
 - (v) scenic and cultural heritage values of waterways and riparian lands, and
 - (b) where practicable, to provide for the rehabilitation of existing piped or channelised waterways to a near natural state.
- (2) This clause applies to land identified as “Riparian Lands” on the Natural Resource Riparian Lands Map.
- (3) Before determining a development application for development on land to which this clause applies, the Council must consider:
 - (a) whether or not the development is likely to have any adverse impact on the following:
 - (i) the water quality in the waterway,
 - (ii) the natural flow regime, including groundwater flows to a waterway,

- (iii) aquatic and riparian species, populations, communities, habitats and ecosystems,
 - (iv) the stability of the bed, shore and banks of the waterway,
 - (v) the free passage of native aquatic and terrestrial organisms within or along the waterway and riparian land,
 - (vi) public access to, and use of, any public waterway and its foreshores, and
 - (b) any opportunities for rehabilitation or re-creation of the waterway and riparian land, and
 - (c) 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 Council is satisfied that:
- (a) the development integrates riparian, stormwater and flooding measures, and
 - (b) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or if that impact cannot be reasonably avoided by adopting feasible alternatives, the development is designed, sited and will be managed to minimise that impact to a satisfactory extent.

* * * * *

PART VIII

General

Savings

62. Nothing in this Ordinance shall be construed as restricting or prohibiting or enabling the responsible authority to restrict or prohibit -
- (a) the carrying out of development of any description specified in Schedule 4 to this Ordinance;
 - (b) the use of existing buildings of the Crown; or
 - (c) home occupations carried on in dwelling-houses.

Rights, etc, under County of Cumberland Planning Scheme

63. The revocations, pursuant to paragraph (d) of subsection two of section 342L of the Act, of the County of Cumberland Planning Scheme to the extent to which it applies in respect of all land within the Municipality of Ku-ring-gai shall not affect -
- (a) the preservation, continuance or enforcement of any right, privilege, obligation or liability acquired, accrued or incurred under that Scheme in respect of any land to which this Ordinance applies before such revocation;
 - (b) the taking of legal proceedings in respect of any offence under that Scheme committed in respect of any land to which this Ordinance applies before such revocation.

Application of Scheme to development incomplete at commencement of Scheme

64. Nothing in this Ordinance shall prevent the erection of a building or the carrying out of any work and the use of such building or work in accordance with the terms of the Town and Country Planning (General Interim Development) Ordinance or of any permission or modification thereof granted under Division 7 of Part XIIA of the Act and under that Ordinance or under an interim development order which permission has not been revoked, or of any consent granted under the County of Cumberland Planning Scheme if the erection of the building or the carrying out of such work was commenced, but not completed, before the appointed day or is substantially commenced within a period of twelve months after that day.

Application of Scheme to development before commencement of Scheme

65. Any development which was carried out otherwise than in accordance with the terms of the Town and Country Planning (General Interim Development) Ordinance or of Division 7 of Part XIIA of the Act, or otherwise than in accordance with the County of Cumberland Planning Scheme and which does not conform with the provisions of this Ordinance shall be deemed to be in contravention of this Ordinance.

Fulfilment of conditions

66. (1) Where permission to erect any building or to carry out any work or to use any building, work or land or to do any other act or thing has been granted under Division 7 of Part XIIA of the Act or under any Ordinance made under that Part or where any consent for any such purpose has been granted under the County of Cumberland Planning Scheme and conditions have been imposed which are not inconsistent with any provisions of this Ordinance, the conditions shall have effect as if they were conditions imposed under this Ordinance and may be enforced accordingly.
- (2) Where, in accordance with the provisions of Part IV of this Ordinance, an existing building or an existing work is maintained and used for its existing use or an existing use of land is continued and such use is permissible by virtue of a consent granted under the County of Cumberland Planning Scheme, such consent and any conditions attached thereto may be enforced as if it were a consent granted under this Ordinance, or such conditions were attached to a consent so granted.

Leasing of certain lands

67. (1) Where the responsible authority has acquired any land for any purpose under this Ordinance and where it appears to the responsible authority that such purpose cannot be carried into effect within a reasonable time after such acquisition, the responsible authority may let such land by way of lease under and subject to the provisions of the Act.
- (2) In the case of land acquired for the purpose of a main road or county road, the consent of the Department of Main Roads to the lease shall first be obtained.
- (3) In determining the term of any such lease regard shall be had to the time when the land is likely to be required for the purpose for which it was acquired or the time when the purposes of the acquisition are likely to be carried into effect.
- (4) Any such lease may authorise the erection of buildings, the carrying out of works and the making of excavations for any purpose but in any case where such purposes are inconsistent with the purposes for which the land is reserved or zoned under this Ordinance, the lease shall require the removal of any such buildings or works or the reinstatement of the land before the end of the term of the lease.
- (5) Where the Authority is the responsible authority under this Ordinance it shall, before determining any application under this clause, consult with the Council and shall take into consideration any representations made by the Council in relation thereto.

Suspension of Acts, covenants, etc

68. (1) The operation of section 309 of the Act and of the proclamations made thereunder declaring residential districts is hereby suspended to the extent to which such section and such proclamations are inconsistent with any of the provisions of this Ordinance or with any consent given thereunder.

*(Subclause 68(1A) added by Sydney Regional Environmental Plan No 1
vide Government Gazette No 191 of 19 December 1980)*

*(Subclause 68(1A) deleted by Local Environmental Plan No 33
vide Government Gazette No 108 of 26 July 1985)*

(1A)

*(Subclause 68(2) amended by Local Environmental Plan No 74
vide Government Gazette No 35 of 9 March 1990)*

- (2) In respect of any land which is comprised within any zone, other than within Zone No 2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 2(g) or 2(h) the operation of any covenant agreement or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes is hereby suspended to the extent to which any such covenant, agreement or instrument is inconsistent with any provision of this Ordinance or with any consent given thereunder.
- (3) Nothing in subclause (2) of this clause shall affect the rights or interests of any statutory authority under any registered instrument.

Plans of subdivision

69. The Council shall retain and catalogue a copy of every plan of subdivision approved by it and upon registration of such plan in the office of the Registrar General, shall clearly mark on a copy of a map of its area the location of the land to which each such plan relates with a reference to the catalogued copy.

Register

*(Miscellaneous (Planning) Repeal and Amendment Act 1979 - Order
Clause 70(1) deleted vide Government Gazette No 139 of 26 September 1980)*

70. (1)

*(Miscellaneous (Planning) Repeal and Amendment Act 1979 - Order
Clause 70(2) deleted vide Government Gazette No 33 of 5 March 1982)*

(2)

Review

71. The Council shall, whenever directed by the Authority so to do and in any case within ten years from the appointed day, review the scheme and prepare and submit to the Authority in accordance with the provisions of the Act a town and country planning scheme or schemes varying this scheme.

Penalty

*(Miscellaneous (Planning) Repeal and Amendment Act 1979 - Order
Clause 72 deleted vide Government Gazette No 33 of 5 March 1982)*

72.

Clause 23

*(Schedules 1, 2 and 3 omitted by Local Environmental Plan No 100
(Business Centres) vide Government Gazette No 102 of 21 August 1992)*

Clause 62

SCHEDULE 4

1. The carrying out by persons carrying on public utility undertakings, being railway undertakings, on land comprised in their undertakings of -
- (a) any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, works and plant;
 - (b) the erection within the limits of a railway station of buildings for any purpose;
 - (c) the erection, reconstruction and alteration of buildings for railway undertaking purposes within Zone No 5(b) outside the limits of a railway station;
- but excluding -
- (i) the construction of new railways, railway stations and bridges over roads;
 - (ii) the erection of any building on land not included in Zone No 5(b);
 - (iii) the erection, reconstruction and alteration of buildings for purposes other than railway undertaking outside the limits of a railway station and the reconstruction or alteration, so as materially to affect the design thereof, of railway stations or bridges;
 - (iv) the formation or alteration of any means of access to a road;

- (v) the erection, reconstruction and alteration of buildings for purposes other than railway undertaking purposes where such buildings have direct access to a public place.
- 2. The carrying out by persons carrying on public utility undertakings, being road transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by road, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant, except -
 - (a) the erection of buildings and the reconstruction or alteration so as materially to affect the design or external appearance thereof, of buildings;
 - (b) the formation, or alteration of any means of access to a road.
- 3. The carrying out by persons who are carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following developments, being development required for the purpose of their undertakings, that is to say -
 - (a) development of any description at or below the surface of the ground;
 - (b) the installation of any plant inside a building or the installation or erection within the premises of a generating station or sub-station established before the appointed day of any plant or other structures or erections required in connection with the station or sub-station;
 - (c) the installation or erection of any plant or other structures or erections by way of addition to or replacement or extension of plant or structures or erections already installed or erected, including the installation in an electrical transmission line of sub-stations, feeder-pillars or transformer housings, but not including the erection of overhead lines for the supply of electricity or pipes above the surface of the ground for the supply of water, or the installation of sub-stations, feeder-pillars or transformer housings of stone, concrete or brickwork;
 - (d) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity;
 - (e) the erection of service reservoirs on land acquired or in process of being acquired for the purposes thereof before the appointed day, provided reasonable notice of the proposed erection is given to the responsible authority;
 - (f) any other development, except -
 - (i) the erection of buildings, the installation or erection of plant or other structures or erections, and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of buildings;
 - (ii) the formation or alteration of any means of access to a road.

4. The carrying out by persons carrying on public utility undertakings, being air transport undertakings, on land comprised in their undertakings within the boundaries of any aerodrome of any development required in connection with the movement of traffic by air, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except -
 - (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect the design or external appearance thereof;
 - (b) the formation or alteration of any means of access to a road.
5. The carrying out by the owner or lessee of a mine, on the mine, of any development required for the purposes of the mine, except -
 - (a) the erection of buildings (not being plant or other structures or erections required for the mining, working, treatment or disposal of minerals) and the reconstruction, alteration or extension of buildings so as materially to affect the design or external appearance thereof;
 - (b) the formation or alteration of any means of access to a road.
6. The carrying out of any development required in connection with the construction, reconstruction, improvement, maintenance or repair of any road, except the widening, realignment or relocation of such road.
7. The carrying out of any development required in connection with the improvement, maintenance or repair of watercourses or drainage works and the construction by the Metropolitan Water Sewerage and Drainage Board of any stormwater channel commenced before the appointed day, provided the Board gives the responsible authority reasonable notice of its intention to construct such stormwater channel.
8. The carrying out by the Metropolitan Water Sewerage and Drainage Board of any development required in connection with the provision, improvement, maintenance and repair of sewers (other than sewage treatment works) upon, below or above the surface of the ground, provided the Board gives the responsible authority reasonable notice of its intention to carry out such development.

Clause 26

*(Schedule 5 omitted by Local Environmental Plan No 100 (Business Centres)
vide Government Gazette No 102 of 21 August 1992)*

Clause 53A

*(Schedule 6 added by Local Environmental Plan No 15
vide Government Gazette No 168 of 3 December 1982)*

*(Schedule 6 omitted by Local Environmental Plan No 100 (Business Centres)
vide Government Gazette No 102 of 21 August 1992)*

Clause 4

*(Schedule 7 added by Local Environmental Plan No 45
vide Government Gazette No 16 of 23 January 1987)*

*(Schedule 7 amended by Local Environmental Plan No 67
vide Government Gazette No 79 of 29 April 1988)*

*(Schedule 7 amended by Local Environmental Plan No 65
vide Government Gazette No 145 of 16 September 1988)*

*(Schedule 7 omitted and new schedule added by
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1
vide Government Gazette No 99 of 6 October 1989)*

*(Schedule 7 amended by Ku-ring-gai (Heritage Conservation)
Local Environmental Plan No 2 vide Government Gazette No 37
of 1 March 1991)*

*(Schedule 7 amended by Local Environmental Plan No 96
vide Government Gazette No 67 of 3 May 1991)*

*(Schedule 7 amended by Local Environmental Plan No 102
vide Government Gazette No 86 of 31 May 1991)*

*(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 3 vide Government Gazette No 108 of 19 July 1991)*

*(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 4 vide Government Gazette No 114 of 9 August 1991)*

*(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 5 vide Government Gazette No 91 of 24 July 1992)*

*(Schedule 7 amended by Local Environmental Plan No 100 (Business Centres)
vide Government Gazette No 102 of 21 August 1992)*

*(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 6 vide Government Gazette No 62 of 29 April 1994)*

*(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 7 vide Government Gazette No 93 of 15 July 1994)*

*(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 9 vide Government Gazette No 3 of 13 January 1995)*

*(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 12 vide Government Gazette No 20 of 16 February 1996)*

*(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 13 vide Government Gazette No 20 of 16 February 1996)*

*(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local
Environmental Plan No 14 vide Government Gazette No 71 of 14 June 1996)*

(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 17 vide Government Gazette No 119 of 7 November 1997)

(Schedule 7 amended by Ku-ring-gai Local Environmental Plan No 174 vide Government Gazette No 171 of 11 December 1998)

(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 11 vide Government Gazette No 93 of 21 July 2000)

(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 22 vide Government Gazette No 190 of 14 December 2001)

(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 26 vide Government Gazette No 28 of 25 February 2005)

(Schedule 7 amended by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 32 vide Government Gazette No 142 of 25 November 2005)

SCHEDULE 7 - Heritage items

Part I - Buildings or works with significant interiors (Cl 4)

- "Mahratta" - 1526 Pacific Highway Warrawee being Lot 1 DP 223670 DP 62488, Lots 29 and 30 Section 1 DP 3312.
- "Tulkiyan" - 707 Pacific Highway, Gordon being Lot 3 Section 1 DP 2267.

Part 2 - Other heritage Items

(Numbers refer to street numbers unless otherwise specified)

Abingdon Road,	33.
Ada Avenue,	21, 25, 30.
Addison Avenue,	33, 6.
Alma Street,	5, 19.
Amarna Parade,	33.
Ancona Road,	17.
Archbold Road,	46, 17.
Arnold Street,	40, 46, 37A, 15, 9, 3.
Arilla Road,	11.
Averil Place,	4.
Avoca Road,	10.
Avon Road	1, 5, 11, 19.
Bancroft Avenue,	24, 26, 28, 59.
Bangalla Street,	12, 3, 23, 29, 30, 35, 37.
Banks Avenue,	36.
Bayswater Road,	17.
Beaconsfield Parade,	14, 31.

Beechworth Road,	6, 9, 41.
Billyard Avenue,	3, 19, 30, 34, 65.
Blytheswood Avenue,	22.
Bobbin Head Road	90, 402, 11, 183, 397, "Flowton" Lady Davidson Hospital.
Boolarong Road,	12.
Boomerang Street,	17, 2, 8.
Borambil Street,	2.
Boundary Street,	3, 79.
Boundary Road,	33, 62, 96.
Braeside Street,	3-5, 9, 17, 69, 12, 26, 34, 62, 90, 38.
Brentwood Avenue,	41.
Buckingham Road,	41, 11-15, 10, 26.
Burgoyne Street,	9.
Burns Road,	14, 34, 36B, 36, 38, 40-42, 44, 68-70, 60, 104, 7, 33, 37, 39, 41-43, 47, 53, 49 that part of Lot 12, Section C, D.P. 503 which includes the smaller area shown by heavy black edging on the map marked "Ku-ring-gai Local Environmental Plan No 65" (which has on it the house known as "Mt. Alverna" (formerly "Greystanes")), trees numbered 1-25 shown as an insert on the map marked Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1, front and rear gates, driveway access and front pallisade fence.
Caithness Street,	1.
Catalpa Crescent,	3.
Cecil Street,	8, 12, 14, 38, 37, 55.
Chelmsford Avenue,	26.
Cherry Street,	49.
Chilton Parade,	35.
Church Street,	10, 19, 21, 23, 29, 33.
Clanville Road,	10, 60A (Firs Estate Cottage in Roseville Park), 81, 11.
Clermiston Avenue,	17.
Cleveland Street,	5-7, 23, 10, 26, 36, 29.
Clissold Road,	69-71, 73-75.
Cocupara Avenue,	25.
Collins Road,	15, 4.
Coonanbarra Road,	120-122, 126-130, 62-68, 63-65, 67, 71, 81A, 83, 125, 99, 105, 61.
Cooper Crescent,	12.
Courallie Avenue,	3.
Daly Avenue,	16.
Dangar Street,	12.
Derby Street,	5.
Dudley Avenue,	7, 8.
Duff Street,	37.
Duntroon Avenue,	48, 54, 80.
Earl Street,	44, 48.
Eastern Road,	43, 46, 63, 127, 155, 42, 134, 158.
Edward Street,	8-14, 16, 15.
Elgin Street,	67.
Elva Avenue,	46.

Fern Street,	4, 6, 8.
Fiddens Wharf Road,	46, 37.
Finlay Road,	29, 51.
Fox Valley Road,	16, 30, 38, 40, 62, 118, 146-148, 33, 35, 47, 97.
Frances Street,	1, 3, 5, 7, 9, 2, 4, 6, 8, 10, 12, 14.
Garden Square,	1, 2, 4, Gate to end of Street.
Garnet Street,	3, 12, 14.
Gladstone Avenue,	8.
Gladstone Parade	24.
Glen Road,	12.
Glendale Road,	27.
Glenview Street,	3.
Gordon Railway Group	(the boundary formed by Werona Avenue to the northeast, the railway overbridge to the south, the property boundary to the southwest behind the car park and at the end of St Johns Road and a line crossing the tracks to the north of the platform a distance of approximately 10 metres away. The boundary includes the footbridge in the landscaped areas adjacent to the station).
Graham Avenue,	9.
Grandview Street,	27, 29, 35, 39, 41, 43, 45.
Grassmere Road,	10, 19.
Greengate Road,	23, 31, 33, 20, 36, 42, 46.
Grosvenor Road,	2, 1, 3, 7, 9, 11, 15.
Grosvenor Street	15, 31, 81, 93, 16, 18, 28, 32, 82, 102.
Handley Avenue,	3A.
Harrington Avenue,	20.
Hastings Road,	20, 22, 34, 52, 52A, 39, 43, 55, 59, 69.
Heydon Avenue,	9, 32 (gazetted as 30 in error), 34.
Highfield Road,	1, 6, 47.
Hill Street,	1, 65 (Westpac Bank).
Hope Street,	5.
Illeroy Avenue,	55.
Illoura Avenue,	4.
Junction Road,	69, 98.
Junction Lane,	121.
Kalang Avenue,	13.
Karoo Avenue,	23.
Karranga Avenue,	36, 2, 21, 29, 32.
Khartoum Avenue,	16.
Killara Avenue,	3, 33, 26.
Killeaton Street,	89.
King Street,	12.
King Edward Street,	24
Kintore Street,	9, 73, 38-42, 29B.
Kissing Point Road,	8, 9, 11, 15, 62, 173B.
Kokoda Avenue,	10.
Kulgoa Avenue,	32.

Ku-ring-gai Avenue,	8, 12, 26, 28, 34, 44, 54, 60, 70, 1, 17, 37, 31, 43, 51, 55, 61, 73, 77.
Kylie Avenue,	22, 25, 27, 27A.
Lightcliff Avenue,	6, 8, 12, 14, 19.
Lindel Place,	4, 3.
Lindfield Avenue,	1-21, 55A
Lister Street,	1.
Livingstone Avenue,	66, 84, 78, 104, 75, 75A (including the stone front fence and iron gates).
Locksley Street,	2-4, 22, 5, 7, 19.
Lofberg Road,	Lot 8 DP 230332 known as West Pymble Quarry or Bicentennial Park.
Longford Street,	1.
Lonsdale Avenue,	6, Avondale Golf Clubhouse.
Lorne Avenue,	8, 10, 14, 21.
Lucinda Avenue,	97, 21-23, 28, 33.
Lucinda Avenue South,	108
Lynwood Avenue,	4, 10, 30, 11, 19, 29.
McIntosh Street,	17.
McIntyre Street,	9, 36.
MacLaurin Parade,	1.
Macquarie Road,	29.
Maples Avenue,	1.
Margaret Street,	3, 5.
Marian Street,	11-15, 33, 39.
Matong Street,	4.
Maytone Avenue,	3, 2, 4, 6.
Melbourne Road,	20.
Memorial Avenue,	23.
Merrivale Road,	57, 89, 26A.
Middle Harbour Road,	32A, 34.
Mildura Street,	5.
Minns Road,	11.
Mona Vale Road,	6-8, 24, 29, 42, 67, 71, 97, 98, 100, 101, 111, 121, 132, 136, 142, 207 (St Ives Public School - original school building), 330.
Montah Avenue,	12, 19, 24.
Moree Street	Cottage Group 55, 49, 33, 42.
Mt. William Street,	21.
Munderah Street,	4.
Narelle Avenue,	3.
Nelson Road,	42, 15, 29-31, 33, 43.
Nelson Street,	1, 23, 25, 33, 35, 37, 22, 24, 28, 32, 38, 41, 43.
Norfolk Street,	43.
Nulla Nulla Street,	2.
Nyora Street,	8.
Ormiston Avenue	2.
Ortona Road,	5, 2.

Pacific Highway, Pacific Highway,	Killara Golf Course Clubhouse. 112-116 (Roseville Cinema), 270, 386-390, 512, 517 (lot B, DP364354), 558, 724-726, 738, 748, 750-54, 818 (Council Chambers), 982-984 (Substation), 1002, 1006, 1010, 1116, 1134 (Pymble Hotel), 1178, 1186-1188, 1190, 1202, 1228, 1284, 1312, 1356-1360, 1428, 1458, 1548, 1574-1576, 1614, 1712, 1712A, 83, 655A (Greengate Hotel), 663, 691, 747 (Commonwealth Bank), 799 (former sandstone school building), 1161, 1163, 1187, 1247, 1359, 1379, 1485-1489, 1551, 1565.
Park Avenue, Park Crescent, Pearson Avenue, Pentecost Avenue, Pibrac Avenue, Polding Road, Porters Lane Powell Street, Provincial Road, Pymble Avenue,	12-14, 20-22, 11, 16, 26. 4A, 10, 34-36. 8. 111, 82. 5, 11, 17, 23, 6, 25. 27. 9, Former Headmasters Cottage. 3, 7, 23, 27, 4, 10, 24, 40, 42, 46. 7, 78, 88, 114A. 7, 41, 59, 14.
Redgum Avenue, Richmond Avenue, Ridge Street,	21, 23. 17, 19, 21, 25, 29. Cottage Group, 27, 29, 33, 41, 43, 45, 57, 65, 52, 64, 72, 74, 84.
Rohini Street Roland Avenue, Roper Place, Rosebery Road, Rosedale Road, Roseville Avenue, Roslyn Avenue, Ryde Road,	Rohini House Gates. 23. 9. 27, 38, 50, 66. 66, 35, 56, 10. 40-42, 47. 2, 4, 6, 8, 1, 3, 5. 48.
St James Lane, St Johns Avenue, Shirley Road, Spencer Road, Springdale Road, Staddon Close, Stanhope Road, Station Street, Stuart Street, Sydney Road,	7. 24. 6, 63. 12, 59. 1-3, 7, 15, 17, 45, 49, 65, 145, 4, 16, 28, 30, 48, 56, 66. 2. 2, 4, 6, 18, 50, 66, 3, 5, 7, 21, 23, 29, 39, 43A, 47, 53A. 5, 11, 13, 17, 19. 7-9, 1. 28, 22.
Taunton Street, Telegraph Road, The Grove, The Kingsway, Torokina Avenue, Treatts Road, Tryon Road,	3. 4, 24-26, 38, 40, 15, 17, 21, 23-29, 31, 37, 43, 51, 53, 63, 77. 14, 17. 11. 30-54, 27-39. 26, 42, 50, 56. 25, 49.

Turramurra Avenue,	40.
Valley Road, Victoria Street,	6, 1, 3. 5, 52.
Wahroonga Avenue, Wahroonga Railway Group	10. (the boundary formed by the Redleaf Avenue road bridge to the south, the property boundaries to the east and west and a line across the tracks 20 metres past the northern end of the platform, including the Coonanbarra Road footbridge).
Waimea Road,	4, 6, 23.
Warragal Road,	60.
Warrangi Street,	7, 35, 39, 41, 47.
Warrawee Avenue,	10, 16, 22, 5, 7.
Warwick Street,	19
Warwilla Avenue,	10, 12, 14.
Water Street,	6, 22, 26, 17, 29, 31, 35-45 (only that part of the land comprising Lot 1, D.P.375262, as shown edged heavy black on Sheet 2 of the map marked "Ku-ring-gai Local Environmental Plan No.174" deposited in the office of the Council).
Wattle Street,	26.
Wellesley Road,	2, 26, 3, 7.
Wellington Road,	96.
Werona Avenue,	51, 25, 49, 1.
Westbourne Road,	25.
Winton Street,	7, 2, 6, 12 the building only, which is known as "The Chalet", the part which comprises the 'kit' excluding additions, alterations which do not comprise the kit.
Wirra Close	2.
Womerah Street,	23, 27, 29.
Woniora Avenue,	8.
Woodlands Road,	72.
Woodville Avenue,	18, 28.
Woonona Avenue,	3 (Lot 1, DP 1004733 – Poole House), 14.
Wyeena Close,	7.
Yarabah Avenue,	17.
Yosefa Avenue,	9.
Young Street,	2.

*(Part 3 Heritage conservation areas added by Ku-ring-gai Local Environmental Plan No 218
vide LW 5 July 2013)*

Part 3 Heritage conservation areas

Name of heritage conservation area	Identification on Heritage Conservation Areas Map	Significance
Archbold Farms Conservation Area	Shown by red hatching and labelled "C34"	Local
Clanville Conservation Area	Shown by red hatching and labelled "C32"	Local
Crown Blocks Conservation Area	Shown by red hatching and labelled "C22"	Local
Earl of Carnarvon Conservation Area	Shown by red hatching and labelled "C33"	Local
Fernwalk Conservation Area	Shown by red hatching and labelled "C9"	Local
Frances Street Conservation Area	Shown by red hatching and labelled "C30"	Local
Garden of Roseville Estate Conservation Area	Shown by red hatching and labelled "C37"	Local
Gordon Park Estate and McIntosh and Ansell Grant Conservation Area	Shown by red hatching and labelled "C15"	Local
Gordondale Estate Conservation Area	Shown by red hatching and labelled "C12"	Local
Greengate Estate Conservation Area	Shown by red hatching and labelled "C20"	Local
Ku-ring-gai Avenue Conservation Area	Shown by red hatching and labelled "C6A"	Local
Lindfield West Conservation Area	Shown by red hatching and labelled "C30A"	Local
Love Estate, Thorne and Oatley Grant Conservation Area	Shown by red hatching and labelled "C14"	Local
Lynwood Avenue Conservation Area	Shown by red hatching and labelled "C23"	Local
Mahratta Conservation Area	Shown by red hatching and labelled "C4"	Local

Name of heritage conservation area	Identification on Heritage Conservation Areas Map	Significance
Marian Street Conservation Area	Shown by red hatching and labelled "C24"	Local
Oliver Grant Conservation Area	Shown by red hatching and labelled "C26"	Local
Orinoco Conservation Area	Shown by red hatching and labelled "C10A"	Local
Pymble Avenue Conservation Area	Shown by red hatching and labelled "C11"	Local
Pymble Heights Conservation Area	Shown by red hatching and labelled "C8A"	Local
Roberts Grant Conservation Area	Shown by red hatching and labelled "C13"	Local
Shirley Road Conservation Area	Shown by red hatching and labelled "C38"	Local
Smith Grant Conservation Area	Shown by red hatching and labelled "C19"	Local
Springdale Grant Conservation Area	Shown by red hatching and labelled "C21"	Local
St Johns Avenue Conservation Area	Shown by red hatching and labelled "C16A"	Local
Stanhope Road Conservation Area	Shown by red hatching and labelled "C25A"	Local
Wahroonga Conservation Area	Shown by red hatching and labelled "C1"	Local
Warrawee Conservation Area	Shown by red hatching and labelled "C3"	Local

SCHEDULE 8

(Schedule 8 added by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1 vide Government Gazette No 99 of 6 October, 1989)

(Schedule 8 amended by Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 2 vide Government Gazette No 37 of 1 March 1991)

(Schedule 8 amended by Local Environmental Plan No 96 vide Government Gazette No 67 of 3 May 1991)

(Schedule 8 amended by Local Environmental Plan No 106 vide Government Gazette No 167 of 29 November 1991)

(Schedule 8 amended by Local Environmental Plan No 110 vide Government Gazette No 5 of 10 January 1992)

(Schedule 8 amended by Local Environmental Plan No 112 vide Government Gazette No 26 of 21 February 1992)

(Schedule 8 amended by Local Environmental Plan No 100 (Business Centres) vide Government Gazette No 102 of 21 August 1992)

(Schedule 8 amended by Local Environmental Plan No 121 vide Government Gazette No 24 of 12 March 1993)

(Schedule 8 amended by Local Environmental Plan No 109 vide Government Gazette No 32 of 2 April 1993)

(Schedule 8 amended by Local Environmental Plan No 133 vide Government Gazette No 56 of 8 April 1994)

(Schedule 8 amended by Local Environmental Plan No 134 vide Government Gazette No 83 of 24 June 1994)

(Schedule 8 amended by Local Environmental Plan No 157 vide Government Gazette No 81 of 5 July 1996)

(Schedule 8 amended by Local Environmental Plan No 197 vide Government Gazette No 179 of 14 November 2003)

Schedule 8 amended by Local Environmental Plan No 214 vide Government Gazette No 138 of 31 October 2008)

Development for Certain Additional Purposes

Ground floor and basement level of buildings on Lot A DP 401141, Coonanbarra Road, Wahroonga - shops, refreshment rooms or professional offices (at least 2 in number) compatible with the historic nature of the building.

Lots 1 and 2, D.P. 746562, Lot 2, Parts 3 and 4, D.P. 1271, Lots 2 and 3, D.P. 396410, Section 2 (207) Mona Vale Road, St Ives, as identified on the map marked "Ku-ring-gai Local

Environmental Plan No. 96" deposited in the office of the Council - subdivision so as to create lots of at least 450 square metres and the erection of a dwelling-house on each such lot.

Land shown hatched on the map marked "Ku-ring-gai Local Environmental Plan No.96" deposited in the office of the Council - recreation areas.

Lot 1, D.P. 212475, and Lot 1, D.P. 501731, being 1142-1150 Pacific

Highway Pymble, as shown stippled on the map marked "Ku-ring-gai Local Environmental Plan No. 106" deposited in the office of the Council - car parking.

Lots A and D, D.P. 337904, 738 Pacific Highway, Gordon, as shown stippled on the map marked "Ku-ring-gai Local Environmental Plan No. 110" deposited in the office of the Council - office and administration use by the Trans Tasman Union Conference of the Seventh Day Adventist Church.

Lot 1, D.P. 13706, being 311 Bobbin Head Road Turramurra, as identified on the map marked "Ku-ring-gai Local Environmental Plan No 112" deposited in the office of the Council - retail plant nursery.

Lots 1 and 2 DP 515147 and Lot 1 DP 4323 Eastern Road, Tennyson Avenue and Alice Street, Turramurra - service station; retail plant nursery.

Lot A DP 364213, Lots C and D DP 372380 and Lot 7 DP 4195 (No. 1) Balfour Street, Lindfield - car parking.

Lot 12 DP 578002 (No. 247) Mona Vale Road, St Ives - medical centre with a floor space ratio not exceeding 1:1.

Lot 20 DP 712121 (No. 855) Pacific Highway, Gordon - car repair station.

Part Lot A DP 185738 (No. 860) Pacific Highway, Gordon - panel beating workshop; car repair station.

Lot 17 DP 249171 (No. 900/902) Pacific Highway, Gordon - panel beating workshop; car repair station.

Lot 21 DP 623395, Lot 1 DP 950362, Lot 1 DP 962890, Part Lot 12 DP 3669, DP 942110 (Nos. 1-5 West Street, No. 19 Ryde Road), Pymble - road transport terminal; bus depot; car repair station; panel beating workshop.

Lot A2 DP 361723 (No. 8) West Street, Pymble - panel beating workshop; car repair station.

Lot A DP 315800 (No. 4) West Street, Pymble - panel beating workshop.

Lot 100 DP 714915 (No. 859) Pacific Highway, Pymble - car repair station.

Part Lot B DP 185738 and Lot 3 DP 609007 (Nos. 870-880) Pacific Highway, Gordon - car repair station.

Part of Lot 1 DP 594383 being part of Gordon Golf Course and known as 4 Lynn Ridge Avenue, Gordon as shown stippled on the map marked "Ku-ring-gai Local Environmental Plan No 121" deposited in the office of the Council- municipal purposes.

Lot 2, D.P. 808504, also known as 89 Pacific Highway, Roseville as shown coloured light scarlet with dark red edging and lettered "2(h)" on the map marked "Ku-ring-gai Local Environmental Plan No 109" deposited in the office of the Council - garden shop.

Lot 26, D.P. 401042 known as 115 Grosvenor Street, Wahroonga, as shown stippled on the map marked "Ku-ring-gai Local Environmental Plan No. 133" deposited in the office of the Council - residential flat buildings.

Lot 2, D.P. 901244 (No.1) McIntyre Street, as shown stippled on the map marked "Ku-ring-gai Local Environmental Plan No. 157" deposited in the office of the Council - car park.

Lot 1, DP 1030172 and Part Lot D, DP 330222 and Lot C, DP 330222 (Nos 657-661 Pacific Highway, Killara) – basement car parking of at least 60 car spaces for the exclusive use of the Greengate Hotel (No 655A Pacific Highway, Killara), but only if:

- (a) the basement car parking will be provided in conjunction with multi-unit housing and associated residential car parking development, and
- (b) deep soil landscaping will be provided:
 - (i) to at least 35% of the site area, and
 - (ii) to a width of at least 8 metres along the Pacific Highway and Bruce Avenue, Killara frontages, and
- (c) in addition to deep soil landscaping as required by paragraph (b) of this item, a further 25% of the site area will be provided with soil to a depth of at least 2 metres (not being deep soil landscaping).

Land fronting Mona Vale Road, St Ives, as shown coloured grey and edged heavy black on the map marked "Ku-ring-gai Local Environmental Plan No 214" deposited in the office of the Council – service station.

In this item, *service station* means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

SCHEDULE 9

*(Schedule 8 added by Local Environmental Plan No 72
vide Government Gazette No 64 of 26 May, 1989)*

*(Schedule 8 renumbered to Schedule 9 by
Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 2
vide Government Gazette No 37 of 1 March 1991)*

Aims and Objectives for Residential Zones

1. The general aims of this Ordinance in relation to land within Zones Nos 2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 2(g) and 2(h) are -
 - (a) to maintain and, where appropriate, improve the existing amenity and environmental character of residential zones; and
 - (b) to permit new residential development only where it is compatible with the existing environmental character of the locality and has a sympathetic and harmonious relationship with adjoining development.
2. The specific objectives of this Ordinance in relation to land within Zones Nos 2 (a), 2(b), 2(c), 2(d), 2(e), 2(f), 2(g) and 2(h) are to ensure that -
 - (a) all new dwelling-houses and additions to dwelling-houses maintain a reasonable level of sunlight to neighbours' living areas and recreation space between 9 a.m. and 3 p.m. during the winter solstice on 22 June; and
 - (b) all new dwelling-houses and additions to dwelling-houses are sited and designed so as to minimise overlooking of neighbours' living areas and recreation space; and
 - (c) any building or development work shall maintain or encourage replacement of tree-cover whenever possible to ensure the predominant landscape quality of the Municipality is maintained and enhanced; and
 - (d) any building or development work on a site avoids total or near total site utilisation by maintaining a reasonable proportion of the site as a soft landscaping area; and
 - (e) all new dwelling-houses and additions to existing dwelling-houses are of a height, size and bulk generally in keeping with that of neighbouring properties and, where larger buildings are proposed, they are designed so as not to dominate and so far as possible to harmonise with neighbouring development; and
 - (f) in areas where one period, style or genre of architecture predominates, the new dwelling-house reflects either that style or the main stylistic features such as roof pitch, materials, proportions, setbacks, etc. and additions to existing dwelling-houses reflect the style of and continue the main stylistic features of the existing structure; and
 - (g) all new dwelling-houses and additions provide reasonable space on the site for the forward entrance and exit of vehicles; and

- (h) all applications will be assessed against the considerations of section 90 of the Environmental Planning and Assessment Act 1979, and section 313 of the Local Government Act 1919.

SCHEDULE 10

*(Schedule 10 added by Local Environmental Plan No 140
vide Government Gazette No 105 of 1 September 1995)*

*(Schedule 10 amended by Local Environmental Plan No 197
vide Government Gazette No 179 of 14 November 2003)*

*(Schedule 10 omitted and amended by Local Environmental Plan No 216
published LW 30 March 2012)*

(Schedule 10 amended by Local Environmental Plan No 221 published LW 14 February 2014)

Classification and reclassification of public land

Part 1 Land classified, or reclassified, as operational land – no interests changed

Column 1	Column 2
Locality	Description
Barwon Avenue, South Turrumurra	Lot 74, DP 216500
Barwon Avenue, South Turrumurra	Lot 1, DP 847214
Barwon Avenue, South Turrumurra	Lot 1, DP 746618
Chisholm Street, South Turrumurra	Lot 3, DP 746618

Part 2 Land classified, or reclassified, as operational land – interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
90 Babbage Road, Roseville Chase	Lot 119, DP 1100208	Nil
4 Binalong Street, West Pymble	Lot 1, DP 867842	Nil
Chisholm Street, South Turrumurra	Lot 1, DP 840228	Nil
Chisholm Street, South Turrumurra	Lot 2, DP 840228	Nil

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Nil	Nil

* * * * *

PLANNING SCHEME ORDINANCE AMENDMENT SUMMARY

(as prescribed on 1 October 1971)

**Subsequent to the introduction of the Act on 1 September 1980
the Ku-ring-gai Planning Scheme Ordinance has been amended by:**

A. Amendments:

1. Local Environmental Plan No 1 excludes Lot 1 DP 377453, Pacific Highway, Pymble from the Scheme.
2. ORDER dated 26 September 1980 under "Miscellaneous Acts" 1979 deletes Clauses 31; 32 & 70(1).
3. ORDER dated 5 March 1982 under "Miscellaneous Acts" 1979 deletes Clauses 26; 27; 28; 29; 30; 37; 38; 70(2) & 72, and amends Clause 23(b) and Column III of Land Use Tables.
4. Sydney Regional Environmental Plan No 12 as proclaimed in Government Gazette No 104 of 19 June 1987 repeals Sydney Regional Environmental Plan No 1 and No 2, also deleting Clause 43A and 43B.
5. Ku-ring-gai (Consolidating) Local Environmental Plan No 1987 vide Government Gazette No 170 of 6 November 1987 repeals Interim Development Orders No 28; 30; 31; 32; 34; 35; 36; 37; 38; 39; 42; 44; 45; 46; 48; 49; 51; 52; 53; 55; 56; 60; 61; 62; 63; 64; 67; 68; 70; 71; 72; 74 and 75; and Local Environmental Plans No 2; 3; 4; 6; 7; 8; 9; 12; 15; 16; 17; 19; 26; 27; 28; 29; 31; 32; 34; 35; 38; 39; 46; 49; 50 and 51.
6. Ku-ring-gai Local Environmental Plan No 100 (Business Centres) vide Government Gazette No 102 of 21 August 1992 repeals Interim Development Orders No 47; 54; 57; 66; 69; 73; and 77; and Local Environmental Plans No 1; 11; 18; 25; 40; 48; 71; 79; 81; 82; and 83. Insertion of a New Part IV - Business Centre Provisions - Clauses 26 to 30D.

B. Inclusions in Clause 4 of the Ordinance:

Local Environmental Plan No 3 vide Government Gazette No 38 of 6 March 1981.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 6 vide Government Gazette No 75 of 29 May 1981.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 7 vide Government Gazette No 82 of 19 June 1981.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 9 vide Government Gazette No 118 of 21 August 1981.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 8 vide Government Gazette No 139 of 18 September 1981.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 12 vide Government Gazette No 33 of 5 March 1982.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 13 vide Government Gazette No 79 of 11 June 1982.

Local Environmental Plan No 15 vide Government Gazette No 168 of 3 December 1982.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 16 vide Government Gazette No 168 of 3 December 1982.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 18 vide Government Gazette No 65 of 29 April 1983.

Local Environmental Plan No 17 vide Government Gazette No 74 of 20 May 1983.
Erratum Notice vide Government Gazette No 114 of 19 August 1983. ***(Repealed by K(C)LEP 1987)***

Local Environmental Plan No 19 vide Government Gazette No 28 of 24 February 1984.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 26 vide Government Gazette No 152 of 4 November 1983.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 28 vide Government Gazette No 167 of 2 December 1983.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 23 vide Government Gazette No 6 of 13 January 1984.

Local Environmental Plan No 29 vide Government Gazette No 6 of 13 January 1984.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 25 vide Government Gazette No 103 of 29 June 1984.

Local Environmental Plan No 31 vide Government Gazette No 150 of 26 October 1984.
(Repealed by K(C)LEP 1987)

Local Environmental Plan No 32 vide Government Gazette No 48 of 1 March 1985.
(Repealed by K(C)(LEP 1987)

Local Environmental Plan No 38 vide Government Gazette No 155 of 15 November 1985.
(Repealed by K(C)(LEP 1987)

Local Environmental Plan No 39 vide Government Gazette No 155 of 15 November 1985.
(Repealed by K(C)(LEP 1987)

Local Environmental Plan No 27 vide Government Gazette No 157 of 22 November 1985.
(Repealed by K(C)(LEP 1987)

Local Environmental Plan No 34 vide Government Gazette No 157 of 22 November 1985.
(Repealed by K(C)(LEP 1987)

Local Environmental Plan No 35 vide Government Gazette No 157 of 22 November 1985.
(Repealed by K(C)(LEP 1987)

Local Environmental Plan No 37 vide Government Gazette No 18 of 31 January 1986.

Local Environmental Plan No 46 vide Government Gazette No 44 of 14 March 1986.
(Repealed by K(C)(LEP 1987)

Sydney Regional Environmental Plan No 7 (Multi-Unit Housing: Surplus Government Sites) vide Government Gazette No 64 of 18 April 1986.

Local Environmental Plan No 49 vide Government Gazette No 94 of 13 June 1986.
(Repealed by K(C)(LEP 1987)

Local Environmental Plan No 50 vide Government Gazette No 136 of 29 August 1986.
(Repealed by K(C)(LEP 1987)

Local Environmental Plan No 51 vide Government Gazette No 183 of 28 November 1986.
(Repealed by K(C)(LEP 1987)

Local Environmental Plan No 45 vide Government Gazette No 16 of 23 January 1987.

Local Environmental Plan No 60 vide Government Gazette No 44 of 6 March 1987.

Local Environmental Plan No 54 vide Government Gazette No 83 of 22 May 1987.

Local Environmental Plan No 62 vide Government Gazette No 117 of 10 July 1987.

Local Environmental Plan No 41 vide Government Gazette No 126 of 31 July 1987.

Local Environmental Plan No 58 vide Government Gazette No 162 of 16 October 1987.

Ku-ring-gai (Consolidating) Local Environmental Plan No 1987 vide Government Gazette No 170 of 6 November 1987.

Local Environmental Plan No 64 vide Government Gazette No 173 of 13 November 1987.

Local Environmental Plan No 67 vide Government Gazette No 79 of 29 April 1988.

Local Environmental Plan No 70 vide Government Gazette No 82 of 6 May 1988.

Local Environmental Plan No 65 vide Government Gazette No 145 of 16 September 1988.

Local Environmental Plan No 55 vide Government Gazette No 180 of 9 December 1988.

Local Environmental Plan No 72 vide Government Gazette No 64 of 26 May 1989.

Local Environmental Plan No 85 vide Government Gazette No 72 of 9 June 1989.

Local Environmental Plan No 77 vide Government Gazette No 78 of 23 June 1989.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1 vide Government Gazette No 99 of 6 October 1989.

Local Environmental Plan No 83 vide Government Gazette No 111 of 17 November 1989.

Local Environmental Plan No 92 vide Government Gazette No 101 of 10 August 1990.

Local Environmental Plan No 95 vide Government Gazette No 101 of 10 August 1990.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 2 vide Government Gazette No 37 of 1 March 1991.

Local Environmental Plan No 97 vide **Government Gazette No 62** of 26 April 1991.

Local Environmental Plan No 96 vide **Government Gazette No 67** of 3 May 1991.

Local Environmental Plan No 101 vide **Government Gazette No 85** of 24 May 1991.

Local Environmental Plan No 102 vide **Government Gazette No 86** of 31 May 1991.

Local Environmental Plan No 76 vide **Government Gazette No 106** of 12 July 1991.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 3 vide Government Gazette No 108 of 19 July 1991.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 4 vide Government Gazette No 114 of 9 August 1991.

Ku-ring-gai Local Environmental Plan No 90 vide Government Gazette No 60 of 15 May 1992.

Ku-ring-gai Local Environmental Plan No 113 vide Government Gazette No 75 of 26 June 1992.

Ku-ring-gai Local Environmental Plan No 103 vide Government Gazette No 83 of 3 July 1992.

Ku-ring-gai Local Environmental Plan No 105 vide Government Gazette No 87 of 10 July 1992.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 5 vide Government Gazette No 91 of 24 July 1992.

Ku-ring-gai Local Environmental Plan No 100 (Business Centres) vide Government Gazette No 102 of 21 August 1992.

Ku-ring-gai Local Environmental Plan No 117 vide Government Gazette No 102 of 21 August 1992.

Ku-ring-gai Local Environmental Plan No 116 vide Government Gazette No 105 of 28 August 1992.

Ku-ring-gai Local Environmental Plan No 118 vide Government Gazette No 24 of 12 March 1993.

Ku-ring-gai Local Environmental Plan No 109 vide Government Gazette No 32 of 2 April 1993.

Ku-ring-gai Local Environmental Plan No 120 vide Government Gazette No 32 of 2 April 1993.

Ku-ring-gai Local Environmental Plan No 123 vide Government Gazette No 58 of 11 June 1993.

Ku-ring-gai Local Environmental Plan No 131 vide Government Gazette No 24 of 21 January 1994.

Ku-ring-gai Local Environmental Plan No 130 vide Government Gazette No 37 of 18 February 1994.

Ku-ring-gai Local Environmental Plan No 125 vide Government Gazette No 42 of 4 March 1994.

Ku-ring-gai Local Environmental Plan No 124 vide Government Gazette No 46 of 18 March 1994.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 6 vide Government Gazette No 62 of 29 March 1994.

Ku-ring-gai Local Environmental Plan No 134 vide Government Gazette No 83 of 24 June 1994.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 7 vide Government Gazette No 93 of 15 July 1994.

Ku-ring-gai Local Environmental Plan No 138 vide Government Gazette No 99 of 29 July 1994.

Ku-ring-gai Local Environmental Plan No 137 vide Government Gazette No 113 of 2 September 1994.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 8 vide Government Gazette No 120 of 16 September 1994.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 9 vide Government Gazette No 3 of 13 January 1995.

Ku-ring-gai Local Environmental Plan No 129 vide Government Gazette No 34 of 24 March 1995.

Ku-ring-gai Local Environmental Plan No 140 vide Government Gazette No 105 of 1 September 1995.

Ku-ring-gai Local Environmental Plan No 155 vide Government Gazette No 20 of 16 February 1996.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 12 vide Government Gazette No 20 of 16 February 1996.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 13 vide Government Gazette No 20 of 16 February 1996.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 14 vide Government Gazette No 71 of 14 June 1996.

Ku-ring-gai Local Environmental Plan No 89 vide Government Gazette No 87 of 19 July 1996.

Ku-ring-gai Local Environmental Plan No 143 vide Government Gazette No 119 of 25 October 1996.

Ku-ring-gai Local Environmental Plan No 162 vide Government Gazette No 36 of 11 April 1997.

Ku-ring-gai Local Environmental Plan No 160 vide Government Gazette No 51 of 9 May 1997.

Ku-ring-gai Local Environmental Plan No 149 vide Government Gazette No 105 of 10 October 1997.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 17 vide Government Gazette No 119 of 7 November 1997.

Ku-ring-gai Local Environmental Plan No 159 vide Government Gazette No 32 of 20 February 1998.

Ku-ring-gai Local Environmental Plan No 169 vide Government Gazette No 81 of 22 May 1998.

Ku-ring-gai Local Environmental Plan No 172 vide Government Gazette No 126 of 28 August 1998.

Ku-ring-gai Local Environmental Plan No 174 vide Government Gazette No 171 of 11 December 1998.

Ku-ring-gai Local Environmental Plan No 170 vide Government Gazette No 10 of 22 January 1999.

Ku-ring-gai Local Environmental Plan No 179 vide Government Gazette No 61 of 21 May 1999.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 11 vide Government Gazette No 93 of 21 July 2000.

Ku-ring-gai Local Environmental Plan No 180 vide Government Gazette No 168 of 22 December 2000.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 22 vide Government Gazette No 190 of 14 December 2001.

Ku-ring-gai Local Environmental Plan No 190 vide Government Gazette No 168 of 12 April 2002.

Ku-ring-gai Local Environmental Plan No 194 vide Government Gazette No 92 of 28 May 2004.

Ku-ring-gai Local Environmental Plan No 139 vide Government Gazette No 98 of 18 June 2004.

Ku-ring-gai Local Environmental Plan No 200 vide Government Gazette No 25 of 11 February 2005.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 26 vide Government Gazette No 28 of 25 February 2005.

Ku-ring-gai Local Environmental Plan No 182 vide Government Gazette No 77 of 24 June 2005.

Ku-ring-gai Local Environmental Plan No 202 vide Government Gazette No 77 of 24 June 2005.

Ku-ring-gai Local Environmental Plan No 204 vide Government Gazette No 98 of 5 August 2005.

Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 32 vide Government Gazette No 142 of 25 November 2005.

C. The Amendment to Clauses:

1. The amendment of Clause 23(b) - Erection or use of buildings or works (vide ORDER of 5 March 1982).
2. The amendment of Column III heading of the Table to Clause 23 by the deletion of "pursuant to Clause 38(1)(a)" wherever occurring (vide ORDER of 5 March 1982).
3. The amendment to the Tables to Clause 23 by the addition of Zone 3(c1) (vide Local Environmental Plan No 18).
4. The amendment to Clause 43A, (vide Local Environmental Plan No 33 - Dual Occupancy).
5. The amendment to Clause 60(1) by the inclusion of Floor Space Ratios for Zone 3(c1) in the Table (vide Local Environmental Plan No 18).
6. The amendment to Clause 61A(1) by the addition of Lots 1-4 DP 31602 and the addition of Subclause (3) to Clause 61A (vide Local Environmental Plan No 13).
7. The amendment to Clause 68 by the addition of Subclause 68(1A) (vide Sydney Regional Environmental Plan No 1 - Dual Occupancy).
8. The amendment to Clause 68 by the deletion of Subclause 68(1a) (vide Local Environmental Plan No 33).
9. The amendment to Clause 4 by removal of existing Clause and insertion of new Clause (vide Local Environmental Plan No 38).
10. The amendments to Clauses 43(5) - 43A(1) - 43B(2) - 60 and by the addition of Subclauses 43(4A) and 43(7)(A) (vide Local Environmental Plan No 37).
11. The amendment to Clause 5A by the addition of the second Subclause (vide Local Environmental Plan No 48).
12. The amendments to Clause 4 and Table to Clause 23 - Recreation Existing 6(a) and insertion of new Clause 60A (vide Local Environmental Plan No 42).
13. The amendments to Clauses 4 and 61C, and insertion of new Clauses 61D; 61E; 61F; 61G and Schedule 7 (vide Local Environmental Plan No 45).
14. The amendment to Clause 4 by deleting the definition of Scheme Map and inserting a new definition of Scheme Map (vide Ku-ring-gai (Consolidating) Local Environmental Plan 1987).
15. The amendment to Clause 4 by inserting a new definition - "Baby Health Centre" (vide Local Environmental Plan No 66).
16. The amendment to Clause 5A by the addition of the third Subclause (vide Local Environmental Plan No 71).
17. The amendment to Clauses 61B(1) and 61B(4), inclusion of Clauses 61B(3A) and 61B(3B) and omitting Clause 61B(6) (vide Local Environmental Plan No 55).

18. The amendment to Clause 46 by removal of existing Clause and insertion of new Clause (vide Local Environmental Plan No 72).
19. The amendment to Clause 5A by the addition of the fourth Subclause (vide Local Environmental Plan No 79).
20. The amendments to Clauses 43(3) and 43(4A) and by the addition of Subclauses 43(3A) and 43(4B) (vide Local Environmental Plan No 87).
21. The amendment to Clause 4 by omitting the definitions of "Group Dwelling", "Residential flat building Class A"; and Residential flat building Class B" (vide Local Environmental Plan No 87).
22. The amendment to Clause 4 by inserting new definitions of "Alter", "Conservation area", "Heritage item" and "Heritage significance", by omitting definitions of "Heritage significance" and "Renovation", and by omitting the previous definition of "Relic" and inserting a new definition. The amendment to Clauses 61D, 61E, 61F and 61G by removal of the existing Clauses and insertion of new Clauses (vide Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1).
23. The amendment to Clause 5A by the addition of the fifth Subclause (vide Local Environmental Plan No 82).
24. The amendment to Clause 68(2) by inserting the words "2(h)" (vide Local Environmental Plan No 74).
25. The amendment to Clause 61F(1)(a)(iii) by removal of existing Clause and insertion of new Clause vide (Local Environmental Plan No 73).
26. The amendment to Clause 1B by deleting reference to Schedule 8 and inserting instead Schedule 9. The amendment to Clause 4 by omitting the previous definition of "Heritage Item" and inserting new definition and by inserting new definition of "Heritage Map" (vide Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 2).
27. The amendment to Clause 5A by the addition of the sixth subclause (vide Local Environmental Plan No 102).
28. The amendment to Clause 4 by inserting the words: Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 3 at the end of the definition of "Heritage Map".
29. The amendment to Clause 4 by inserting the words: Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 4 at the end of the definition of "Heritage Map".
30. The amendment to Clause 4 by deleting the definition of Home Occupation and inserting a new definition of Home Occupation (vide Ku-ring-gai Local Environmental Plan No 114).
31. The amendment to the Table to Clause 23 by inserting after the matter relating to Zone 5(a) the new zone 5(a1) (vide Ku-ring-gai Local Environmental Plan No 105).

32. The amendment to Clause 3 by omitting the matter relating to Part IV and by inserting the following matter Part IV - Business Centre Provisions - Clauses 26 to 30D (vide Ku-ring-gai Local Environmental Plan No 100 (Business Centres)).
33. The amendment to Clause 4 by omitting from the definition of "Scheme Map" the words Ku-ring-gai Local Environmental Plan No 18; 25 and 83 and inserting a new definition of "Total floor space Area" (vide Ku-ring-gai Local Environmental Plan No 100 (Business Centres)).
34. The amendment to the Table to Clause 23 by omitting the matters relating to Zones No 3(a), 3(b), 3(c), 3(c1), 3(d) and 3(e) (vide Ku-ring-gai Local Environmental Plan No 100 (Business Centres)).
35. The amendment to the Table to Clause 60 by omitting the matters relating to Zones No 3(a), 3(b), 3(c), 3(c1), 3(d) and 3(e) (vide Ku-ring-gai Local Environmental Plan No 100 (Business Centres)).
36. The amendment to Clause 4 by omitting the definition of "Child Care Centre" and "Professional Consulting Rooms" and by inserting new definitions of "Child Care Centre" and "Professional Consulting Rooms" (vide Ku-ring-gai Local Environmental Plan No 86).
37. The amendment to the Table to Clause 23 in Column IV of the matter relating to Zones No 2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 2(g) and 2(h) by inserting the words "home occupation" (vide Ku-ring-gai Local Environmental Plan No 86).
38. The amendment to Clause 4 definition of "Home Occupation" (vide Ku-ring-gai Local Environmental Plan No 86).
39. The amendment to Clause 60C by removal of existing Clause and insertion of new Clause (vide Local Environmental Plan No 94).
40. The amendment to Clause 27 by inserting the words: as amended by the maps (or, if any sheets of the maps are specified, by the specified sheets of the maps) marked as follows:

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at the end of the definition of "The map".
41. The amendment to Clause 4 by inserting a new definition - "Brothel" and amendment to definition of "Home Occupation" (vide Local Environmental Plan No 171).
42. The amendment to Clause 23 by inserting the word "brothels" into Column V of Zones 2(a), 2(b), 2(c) and 2(g) (vide Local Environmental Plan No 171).
43. The amendment to Clause 30 by inserting a new subclause "(2)" (vide Local Environmental Plan No 171).
44. The amendment to Clause 60(1) by inserting after the word "erected" the words "(which may be referred as the 'floor space ratio') (vide Local Environmental Plan No 179).

45. The amendment to Clause 4 by deleting the definition of “Child Care Centre” and by inserting a new definition of “Child Care Centre”. (vide Local Environmental Plan No.177).
46. The amendment to clause 4 by inserting new definitions – “DCP 46”, “Open Space Categories and Land Use Map”, “Slope Map” and “Special Event”, by deleting definition of “Development” and by deleting previous definition of “The Act” and inserting new definition of “The Act” and by inserting subclauses 4(2) and 4(3). (vide Local Environmental Plan No 180)
47. The amendment to Clause 23 by deleting that clause and the Table to that clause and inserting new Clause 23 and Table. The amendment to Clause 24 and 25 by deleting and those clauses and inserting new Clauses 23 and 24.(vide Local Environmental Plan No 180)
48. The amendment to item 3 relating to Zone 3(a) in the Table to Clause 29 by omitting that item 3 and inserting new item 3. The amendment to item 3 relating to Zone No.3(b) by omitting from that item the word “Brothels” and inserting “Advertising signs; brothels” and by inserting “internal alterations to a building or work;” after “drainage”. (vide Local Environmental Plan No 180)
49. The amendment to Clause 52 by deleting that clause and inserting new Clause 52. The amendment to Clause 60C (1) and (2) by omitting those subclauses and inserting new subclauses (1), (2) and (2A). (vide Local Environmental Plan No 180)
50. The amendment to the Table to Clause 23 by inserting the matters relating to Zones No 2(c1), 2(c2) and 2(d3) (vide Ku-ring-gai Local Environmental Plan No 194).
51. The amendment to clause 25A by inserting the matters relating to Ku-ring-gai Local Environmental Plan No 200 – Zoning Map (vide Ku-ring-gai Local Environmental Plan No 200).
52. The amendment to clause 25B by omitting the definition of and inserting a new definition of “Detached Dual Occupancy Map” (vide Ku-ring-gai Local Environmental Plan No 200).
53. The amendment to clause 25B by omitting “194” and inserting “200” (vide Ku-ring-gai Local Environmental Plan No 200).
54. The amendment to clause 25E(2) by omitting “Occupancies” and inserting “Occupancy” (vide Ku-ring-gai Local Environmental Plan No 200).
55. The amendment to clause 25H(3)(b) by omitting “Occupancies” and inserting “Occupancy” (vide Ku-ring-gai Local Environmental Plan No 200).
56. The amendment to the Table to Clause 23 by inserting at the end of Column 2 in the matter relating to Zone 6(a) the words “Uses authorised under the *National Parks and Wildlife Act 1974* on so much of the land within this zone as is within a national park.” (vide Ku-ring-gai Local Environmental Plan No 211).

D. The deletion of Clauses:

- 5A - This Ordinance does not apply to the following land.
- 26 - Continuance of existing building, works and land use.
- 27. - Alterations and extensions of existing buildings and works.
- 28. - Alterations of existing uses.
- 29. - Building or land used for more than one purpose.
- 30. - Illegally established development.
- 31. - Submission of plans.
- 32. - Consideration of applications generally.
- 34. - Development in residential zones.
- 37. - Consents to be void in certain circumstances.
- 38. - Determination of applications.
- 39. - Places of scientific or historic interest.
- 43A - Dwelling-Houses - Dual Occupancy.
- 43B - Subsidiary Dwelling-Houses.
- 43C - Suspension of certain laws etc.
- 46A - Height of Buildings - certain land at East Lindfield and East Killara.
- 51 - Loading and Unloading Facilities.
- 51A - Erection and maintenance of buildings in Zone No 3(c1).
- 53A - Development of land at 5-9 Cowan Road, St Ives.
- 53AB- Development of land at 5 Kissing Point Road, Turramurra.
- 53B - Development of land at Lot 2 DP 377453, Telegraph Road, Pymble.
- 53C - Development of land at 702-714 Pacific Highway and 20 Cecil Street, Killara.
- 61 - Development in Zone No 2(f).
- 61C - Conservation Area (Retail).
- 70 - Register.
- 72 - Penalty.

E. The addition of Clauses:

- 1B Aims and objectives for Residential zones (vide Local Environmental Plan No 72).
- 5A Lot 104 DP 627012, Mona Vale Road, St Ives (vide Local Environmental Plan No 25).
- 25A Land to which this Part applies (vide Local Environmental Plan No 194).
- 25B Definitions (vide Local Environmental Plan No 194).
- 25C Aims and objectives of Part 3A (vide Local Environmental Plan No 194).
- 25D Consideration of residential zone objectives and impact on heritage (vide Local Environmental Plan No 194).
- 25E Controls on development (vide Local Environmental Plan No 194).
- 25F Dual Occupancies in Zone No 2(c2) (vide Local Environmental Plan No 194).
- 25G Apartment conversions in Zone No 2(c2) (vide Local Environmental Plan No 194).
- 25H Subdivision in the residential zones (vide Local Environmental Plan No 194).
- 25I Site requirements and development standards for multi-unit housing (vide Local Environmental Plan No 194).
- 25J Car parking (vide Local Environmental Plan No 194).
- 25K Steep slope sites (vide Local Environmental Plan No 194).
- 25L Zone interface (vide Local Environmental Plan No 194).
- 25M Non-discretionary development standards for residential flat buildings in Zone No 2(d3) (vide Local Environmental Plan No 194).
- 25N Manageable housing (vide Local Environmental Plan No 194).
- 25NA Strata Subdivision of dual occupancies (vide Local Environmental Plan No 204).
- 25O Manageable housing (vide Local Environmental Plan No 182).
- 25P Manageable housing (vide Local Environmental Plan No 182).
- 25Q Manageable housing (vide Local Environmental Plan No 182).
- 25R Manageable housing (vide Local Environmental Plan No 182).
- 25S Manageable housing (vide Local Environmental Plan No 182).
- 25T Manageable housing (vide Local Environmental Plan No 182).
- 25U Manageable housing (vide Local Environmental Plan No 182).

- 25V Manageable housing (vide Local Environmental Plan No 182).
- 25W Manageable housing (vide Local Environmental Plan No 182).
- 25X Manageable housing (vide Local Environmental Plan No 182).
- 25Y Application of Part (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 25Z Interpretation (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26A Application of SEPPs (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26B Land use zones (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26C Objectives of land use zones to be taken into account (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26D Zone R1 General Residential (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26E Zone R2 Low Density Residential (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26F Zone R3 Medium Density Residential (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26G Zone R4 High Density Residential (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26H Zone B1 Neighbourhood Centre (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26I Zone SP1 Special Activities (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26J Zone E2 Environmental Conservation (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)

- 26K Prohibited development (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26L Subdivision – consent requirements (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26M Height and gross floor area restrictions (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26N Maximum number of dwellings (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26O Exceptions to development standards (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26P Bush fire hazard reduction (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26Q Preservation of trees or vegetation (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26R Heritage conservation (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26S Earthworks (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26T Public utility infrastructure (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26U Infrastructure development and use of existing buildings of the Crown (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26V Temporary use of land (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26W Application of Part (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26X Interpretation (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)

- 26Y Application of SEPPs (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26Z Application of Part (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZA Land use zones (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZB Zone R1 General Residential (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZC Zone R2 Low Density Residential (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZD Zone B4 Mixed Use (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZE Zone RE1 Public Recreation (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZF Zone E1 National Parks and Nature Reserves (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZG Zone E3 Environmental Management (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZH Subdivision – consent requirements (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZI Demolition requires development consent (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZJ Public utility undertakings excepted (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZK Exceptions to development standards (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)

- 26ZL Height of buildings (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZM Interim land use for exhibition and sales office (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZN Maximum number of dwellings (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZO Controls relating to miscellaneous permissible uses (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZP Heritage conservation (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZQ Bush fire hazard reduction (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 26ZR Infrastructure development and the use of existing buildings of the Crown (vide State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012)
- 29A Change of use in Zone No.3 (a) or (b)
- 38A Lot 2 DP 611692, Stanhope Road, Killara (vide Local Environmental Plan No 5).
- 38B Services (vide Local Environmental Plan No 100 (Business Centres)).
- 43A Dwelling-houses - Dual Occupancy (vide Sydney Regional Environmental Plan No 1).
- 43B Subsidiary dwelling-houses - Dual Occupancy (vide Local Environmental Plan No 33).
- 43C Suspension of certain laws, etc - Dual Occupancy (vide Local Environmental Plan No 33).
- 46A Height of Buildings - certain lands at East Lindfield and East Killara (vide Local Environmental Plan No 8).
- 51A Erection and Maintenance of Buildings in Zone 3(c1) (vide Local Environmental Plan No 18).
- 53A Lots 31 & 32 DP 542609, Cowan Road, St Ives (vide Local Environmental Plan No 15), also Schedule 6.

- 53B Lot 2 DP 377453, Pacific Highway & Telegraph Road, Pymble (vide Local Environmental Plan No 16).
- 53AB Lot 1 DP 215790, Kissing Point Road, Turramurra (vide Local Environmental Plan No 26).
- 53C Lots 2, 3 & 4 DP 16360, Lots 1 & 2 DP 165372 and Lots A, B and C DP 332586, 702-714 Pacific Highway and 20 Cecil Street, Killara (vide Local Environmental Plan No 38).
- 58A Subdivision - generally (vide Local Environmental Plan No 72).
- 58B Subdivision requirements for dwelling-house lots (vide Local Environmental Plan No 183).
- 60A Development of land within Zone No 6(a) (vide Local Environmental Plan No 42).
- 60AA Lots 19 & 21 DP 6494 and Lot B DP 358184, Eastern Road, Turramurra (vide Local Environmental Plan No 66).
- 60AB Land at Carlyle Road, East Lindfield (vide Local Environmental Plan No 84).
- 60B Subdivision of certain land in Boomerang Street, Turramurra (vide Ku-ring-gai (Consolidating) Local Environmental Plan 1987).
- 60BA Built-upon area of land at 9-15 Curagul Road, North Turramurra (vide Local Environmental Plan No 131).
- 60BB Built-upon area of land 2-4 Mona Vale Road, Pymble (vide Local Environmental Plan No 137).
- 60C Built-Upon Area (vide Local Environmental Plan No 72).
- 60D Development of Land at 324-346 Mona Vale Road, St Ives (vide Local Environmental Plan No 125).
- 60E Development of land at 803-805 Pacific Highway, Gordon for purposes of residential flat buildings.
- 60F Development of Land at 414 Pacific Highway, Lindfield for the purposes of residential flat buildings.
- 60G Development of Land at corner of Bobbin Head Road and Murrua Road, North Turramurra to set a minimum width for those allotments of the land that front Bobbin Head Road
- 61A Lot 2 DP 609871, College Crescent, St Ives and Lots 1-4 DP 31602 Vernon Street, South Turramurra (vide Local Environmental Plans No 10 & 13).
- 61B Masada High School, St Ives (vide Local Environmental Plan No 14).
- 61C Lot A DP 401141, Coonanbarra Road, Wahroonga (vide Local Environmental Plan No 23).

- 61BA Lot 2 DP 231435, St Johns Avenue, Gordon (vide Local Environmental Plan No 37).
- 61BB Lot 2 DP 231435, St. Johns Avenue, Gordon (vide Local Environmental Plan No 37).
- 61D Items of the Environmental Heritage clause (vide Local Environmental Plan No 45).
- 61E Items of the Environmental Heritage clause (vide Local Environmental Plan No 45).
- 61F Items of the Environmental Heritage clause (vide Local Environmental Plan No 45).
- 61G Items of the Environmental Heritage clause (vide Local Environmental Plan No 45).
- 61H Conservation incentives relating to heritage items (vide Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1).
- 61I Development for certain additional purposes (vide Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1).
- 61J Advertisement and notification of certain Development Applications (vide Local Environmental Plan No 73).
- 61K Classification and reclassification of public land as operational (vide Local Environmental Plan No 140).

F. The Addition of Schedules:

- No 6 - Clause 53(A); 53(AB) & 53(B); 53(C) (refers to Section 94(1) of the Act).
- No 7 - Clause 4 (inclusion of definition of "Item of the Environmental Heritage").
- No 8 - Clause 4 (inclusion of aims and objectives for Residential zones).
- No 8 - Clause 61I (development for Certain Additional Purposes).
- No 10 - Clause 61K (Classification and reclassification of public land as operational).

G. The Amendment of Schedules:

The amendment to Schedule 7 by removal of existing Schedule 7 "Items of the Environmental Heritage" and insertion of new Schedule 7 "Heritage items" (vide Ku-ring-gai (Heritage Conservation) Local Environmental Plan No 1.

The amendment to Part 2 of Schedule 7 by omitting and inserting various avenues, roads and streets.

The renumbering of Schedule 8 (Aims and Objectives for Residential Zones) as Schedule 9.

The amendment to Part 2 of Schedule 7 by inserting under Mona Vale Road between the Nos 142 and 324-346 the matter "207 (St Ives Public School - original school building)".

The amendment to Schedule 8 by inserting the matter relating to 207 Mona Vale Road, St Ives (St Ives Public School).

The amendment to Part 2 of Schedule 7 by inserting under Pacific Highway "No 799 (former sandstone school building)",.

The amendment to Part 2 of Schedule 7 by deleting properties in various Avenues and Roads.

The amendment to Schedule 8 by inserting the matter relating to 1142-1150 Pacific Highway, Pymble.

The amendment to Schedule 8 by inserting the matter relating to 738 Pacific Highway, Gordon.

The amendment to Schedule 8 by inserting the matter relating to 311 Bobbin Head Road Turramurra.

The amendment to Schedule 8 by inserting the matter relating to part of Gordon Golf Course known as 4 Lynn Ridge Avenue, Gordon.

The amendment to Part 2 of Schedule 7 by inserting under Clissold Road after "69-71" the matter "73-75" and by deleting properties in various streets.

The amendment to Part 2 of Schedule 7 by inserting No 65 Hill Street, Roseville and Nos 112-116, 386-390, 655A, 747, 1134 and 1356-1360 Pacific Highway.

The amendment to Schedule 8 by inserting various properties.

The amendment to Schedule 8 by inserting the matter relating to 89 Pacific Highway, Roseville.

The amendment to Schedule 8 by inserting the matter relating to 115 Grosvenor Street, Wahroonga.

The amendment to Part 2 of Schedule 7 by omitting the matters relating to Woniora Avenue and inserting the matter relating to No 8 Woniora Avenue.

The amendment to Schedule 8 by inserting the matter relating to 986 Pacific Highway, Pymble.

The amendment to Part 2 of Schedule 7 by omitting the matter relating to 21, 23 and 25 Moree Street, Gordon.

The amendment to Part 2 of Schedule 7 by omitting the matter relating to 22 Todman Avenue, West Pymble and 12 Valley Road, Lindfield.

The amendment to Part 2 of Schedule 7 by omitting the matter relating to 1 Middle Harbour Road, Lindfield.

The amendment to Part 2 of Schedule 7 by inserting the matter relating to 32 Karranga Avenue, Killara.

The amendment to Part 2 of Schedule 7 by omitting the matter relating to 132 Coonanbarra Road, Wahroonga.

The amendment to Schedule 8 by inserting the matter relating to 1 McIntyre Street, Gordon.

The amendment to Schedule 10 by inserting the matter relating to lots 19 and 25 D.P.822305 off Lady Game Drive, Lindfield.

The amendment to Part 2 of Schedule 7 by inserting the matter relating to No.46 Powell Street, Killara.

The amendment to Schedule 10 by inserting the matters relating to Lennox Street, Golf Links Road, Hesperus Street, Peace Avenue, Addison Avenue and Campbell Drive.

The amendment to Part 2 of Schedule 7 by amending the matter relating to 35-45 Water Street, Wahroonga.

The amendment to Part 2 of Schedule 7 by omitting the matters relating to 1 Alison Street, 6 Short Street, 30-32 Heydon Avenue, 1028 Pacific Highway and inserting the matters relating to 60A Clanville Road, 32 Heydon Avenue, 55A Lindfield Avenue and 83 Pacific Highway.

The amendment to Part 2 of Schedule 7 by deleting and inserting properties in various Avenues and Roads.

The amendment to Schedule 8 by inserting the matter relating to 657-661 Pacific Highway, Killara.

The amendment to Schedule 8 by inserting the matter relating to 452 Mona Vale Road, St Ives.

H. The Deletion of Schedules:

- No 1 - to Clause 23 (vide Ku-ring-gai Local Environmental Plan No 100 (Business Centres)).
- No 2 - to Clause 23 (vide Ku-ring-gai Local Environmental Plan No 100 (Business Centres)).
- No 3 - to Clause 23 (vide Ku-ring-gai Local Environmental Plan No 100 Business Centres)).
- No 5 - to Clause 23 (vide Ku-ring-gai Local Environmental Plan No 100 (Business Centres)).
- No 6 - to Clause 53A (vide Ku-ring-gai Local Environmental Plan No 100 (Business Centres)).

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