

Ref No: D19/240534

APPENDIX 4 – Additional Local Provisions Justification

Amended Planning Proposal

Georges River Local Environmental Plan

(PP2019/0004)

June 2020 – For Finalisation

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Clause 6.1 Acid sulfate soils

Both the *HLEP 2012* and *KLEP 2012* have adopted a provision relating to acid sulfate soils. However, the *KLEP 2012* provision has a smaller buffer of 100m for Class 5 land, in comparison to the *HLEP 2012* provision which has a buffer of 500m for works undertaken on Class 5 land. The DPIE's model provision adopts the 500m buffer for Class 5 land. Class 5 land comprises land which has the least risk to acid sulfate soils.

The *KLEP 2012* varies the model provision due to the number of properties that would be affected by the larger Class 5 land buffer area. The current 100m buffer provision only affects approximately 1,700 properties compared to a 500m buffer which would affect approximately 9,500 properties.

However, there is a need for a consistent and harmonised approach to the assessment of development on acid sulfate affected lands across the LGA. By applying the DPIE's model local provision for acid sulfate soils without amendment, i.e. the 500m buffer for Class 5 land across the entire LGA, the principle of equity through harmonisation (as noted in Council's overarching principles of preparing the *GRLEP 2020*) will be achieved.

Development applications within areas identified on the Acid Sulfate Map will need to consider and assess the impact of the development on acid sulfate soils and prepare an acid sulfate soils management plan if an initial assessment indicates a management plan is required.

Clause 6.2 Earthworks

Currently only the *KLEP 2012* includes a local provision relating to earthworks. It is proposed to introduce an earthworks provision that applies to the whole LGA to ensure consistency in the assessment of earthworks and the impact of works on the integrity of adjoining properties. This local provision will mean that any development application will need to consider the impact of proposed excavation on matters, such as soil stability, soil erosion, the amenity and structural integrity of adjoining properties, and the health and vitality of existing trees. Developments will also need to be designed to complement the slope of the land to minimise the need for cut and fill and their potential height and bulk.

This clause seeks to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses and amenity, cultural or heritage items or features of the surrounding land. It also allows earthworks of a minor nature without requiring separate development consent.

It is intended that the local provision will also require consideration of the scenic character of the Georges River foreshore. The definition of "sloping land" within the proposed local provision is intended to be based on the definition of "sloping site" in the Low Rise Medium Density Design Guide. It is also intended that DCP controls will be developed to complement the local provision.

The drafting of this local provision is based on the drafting of the current *KLEP 2012* and the *Sutherland LEP 2015* earthworks local provisions.

Clause 6.3 Flood Planning

At present, only the *KLEP 2012* includes a flood planning clause. This existing clause applies to flood planning areas identified in the *KLEP 2012* Flood Planning Map (refer **Figure 1**). The proposal to adopt this local provision across the LGA will ensure that the likelihood of flooding is assessed consistently.

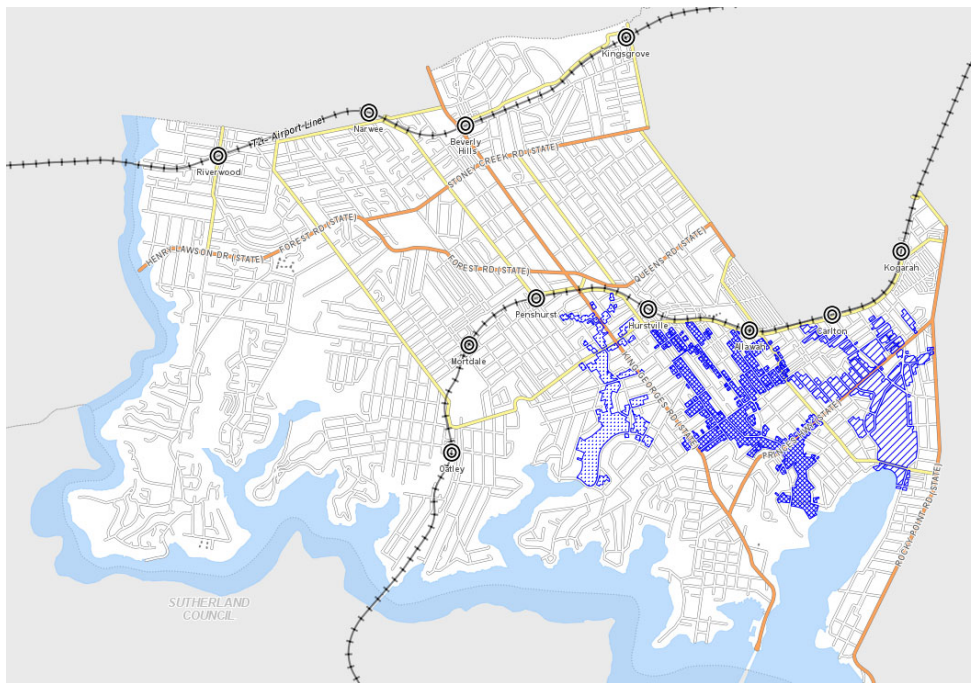


Figure 1 – Existing and proposed flood planning area

This Planning Proposal seeks to expand the application of this clause to the whole LGA to ensure that all developments incorporate appropriate measures to manage flood hazards consistently across the LGA. The proposed clause retains the existing Flood Planning Area and 1 in 100 year Flood Extents mapping under the *KLEP 2012* and no additional flood planning areas are proposed to be added (refer **Figure 1** above).

Any development applications for land identified on the proposed Flood Planning Map will need to consider whether the development is appropriate for that site given the potential flood hazard and demonstrate that it will not adversely affect flood behaviour. If required, measures that manage risk to life and minimise impact of the loss of flood storage capacity may need to be implemented.

The drafting of the local provision is based on the DPIE's model provision and the current flood planning local provision within the *KLEP 2012*.

Clause 6.4 Stormwater management

This Planning Proposal seeks to introduce a clause relating to stormwater management to ensure the impacts of urban stormwater runoff is minimised to protect and improve the environmental health of the LGA's waterways, namely the Georges River and Salt Pan Creek.

This is a new local provision that is proposed to be applied to all new developments and substantial redevelopments across the LGA.

If a development is proposed to which this clause applies, consideration must be given to the impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system and incorporate design measures to maximise on-site infiltration of water and on-site stormwater detention or retention to reduce the development's reliance on mains supplied water if practicable. Development consent will not be granted for development which is likely to significantly affect the environment or if discharge from the site cannot be accommodated within the existing stormwater infrastructure.

It should be noted that this LEP clause will be supported by Council's *Stormwater Management Policy* which is currently being reviewed. This Policy provides detailed information in relation to on-site stormwater management, design requirements for developments on both public and private land and measures to improve the water quality of natural watercourses.

The drafting of the local provision is based on clause 6.4 Stormwater management of the *Sutherland Local Environmental Plan 2015*.

Clause 6.5 Foreshore area and coastal hazards and risks

This is a new local provision that amalgamates the intentions of the *HLEP 2012* riparian land and watercourses local provision and the limited development on foreshore area local provisions from the *KLEP 2012* and the *HLEP 2012*. The provision applies to land identified on the following maps:

- Coastal Hazard and Risk Map (**Figure 2** showing sea level rise)
- Foreshore Building Line Map (**Figure 3** shaded pink)

The Coastal Hazard and Risk Map has been developed in conjunction with the *Foreshore Review*. The Map was informed by the mapping of the Tidal Inundation Extent for 2012, 2050, 2070 and 2100. This found that generally the tidal inundation extents remain similar to the present position with the majority of inundation remaining within the Georges River channel. There are a few notable exceptions to this, however, that will need to be considered in the context of the existing foreshore building line.

The Coastal Hazard Risk Map introduces a new line that delineates areas subject to the highest level of risk from future tidal inundation and will allow these areas to be captured by the local provision alongside the existing foreshore building line mapping and riparian lands and waterway mapping.

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Figure 2 – Proposed Coastal Hazard and Risk Map



Figure 3 – Proposed Foreshore Building Line Map

The amalgamation of the riparian lands and foreshore local provisions is required as the local provisions included within the *HLEP 2012* and *KLEP 2012* do not adequately address coastal hazard and risk, they also fail to take a holistic and comprehensive approach to protecting the visual amenity, ecological value and character of the foreshore area.

The inclusion of the coastal hazard area will ensure there is a focus on addressing coastal hazards and risk through the development assessment process as the current local provision does not provide a clear link to policy on coastal hazard and risk.

The amalgamated clause will perform a number of functions by addressing hazard and risk, environment and amenity values, protection of aquatic ecological values and the impact of sea level rise on the LGA. It will also enable a comprehensive approach to be taken when considering and assessing development on the foreshore to achieve better outcomes and greater clarity of the types of development appropriate on the foreshore without being too restrictive. In addition, this local provision is aligned with the principle of enhancing and protecting the natural environment along the foreshore areas.

If a proposed development falls within land to which this clause applies, consent will not be granted unless:

- it is for an extension, alteration or rebuild of an existing building and such works will not extend the footprint of the building closer to the land identified by the three maps referred to above; or
- the levels, depth or other exceptional features of a particular site mean that a proposed development is appropriate; or
- the development proposed consists of boat sheds, sea retaining walls, wharves, slipways, jetties, works to enable pedestrian access to the waterway, swimming pools, fences, cycleways or walking trails.

For developments that fall within any of the above exceptions, the development application must consider whether the development could be located elsewhere on the site not exposed to coastal hazards, if the development will cause congestion or conflict with the use of open space, waterways or public access along the foreshore and if the development is likely to have an adverse impact on the foreshore area.

Any proposed development on the site will also need to consider the impact of sea level rise and tidal inundation as a result of climate change, impacts on the water quality of the Georges River, and other coastal hazards.

The drafting of this local provision is based on:

- the DPIE's model local provision for development in the foreshore and foreshore building line and;
- the current local provisions for limited development on the foreshore area from the *HLEP 2012*, *KLEP 2012* and *Sutherland Shire LEP 2015*.

Clause 6.6 Riparian land and waterways

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This clause is an expansion of the existing clause within the *HLEP 2012* which seeks to protect and maintain the water quality and ecology of the LGA's significant waterways of the Georges River and Salt Pan Creek.

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The clause is translated from the existing Clause 6.2 Riparian land and watercourses under the *HLEP 2012*, which identifies “sensitive lands” on the Riparian Land and Waterways Map. This Planning Proposal seeks to expand the application of this clause to the whole LGA to ensure that all developments along the riverfront give considerations to the environmental impacts on the river.

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The proposed provision applies to land identified on the Riparian Lands Waterways Map (Figure 4~~Error! Reference source not found.~~, shaded light blue), shown as a 40m buffer zone from the mean high water mark.

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Figure 4 – Proposed Riparian Lands and Waterways Map

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If a proposed development falls within land to which this clause applies, the development must be designed and sited to manage any significant adverse environmental impacts on the adjoining watercourse and consideration must be given towards the impacts on the water quality of the Georges River and/or Salt Pan Creek.

The drafting of this local provision is based on the *HLEP 2012* local provision for riparian lands and watercourses.

In response to the submission received from the NSW Environment, Energy and Science (EES) during public exhibition, the subject of this clause has been amended from “watercourses” to “waterways” to include other waterbodies such as creeks and natural wetlands. Additional considerations of local native riparian vegetation and Aboriginal cultural heritage values of waterways have also been inserted into the clause.

Clause 6.7 Foreshore scenic protection area

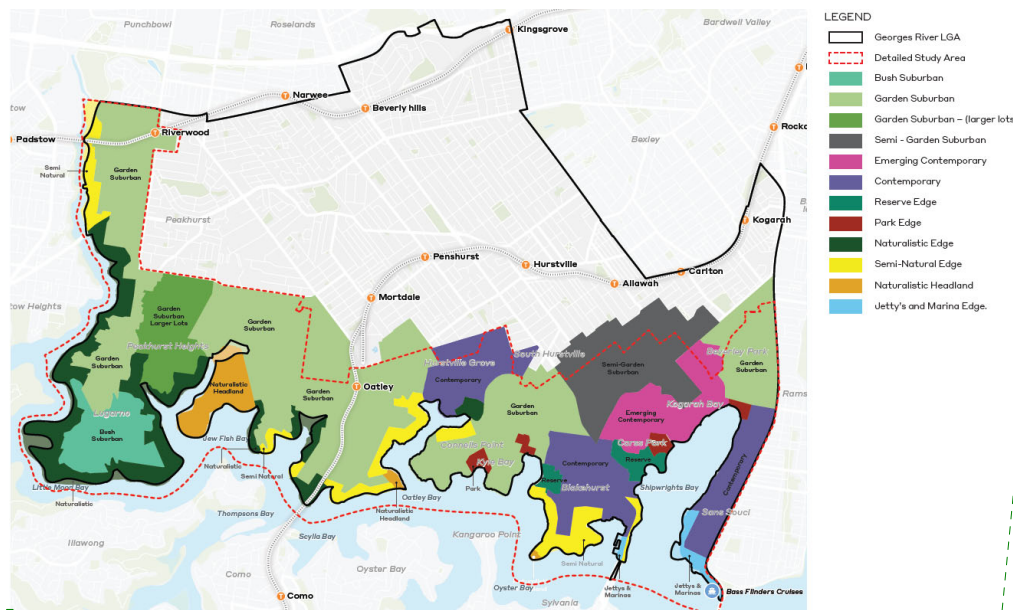
A *Foreshore Strategic Directions Paper* has been prepared for Council which among other specific studies reviewed the existing foreshore scenic protection area (“FSPA”). The Paper included a review and assessment of the visual character of the foreshore localities (as viewed from the water) and waterways along the land and water interface. Figure 5 identifies these specified character areas. Each of these character areas were assessed for their sensitivity to change due to new development and the impacts of such development.

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These character typologies with High or Very High sensitivity ratings listed below generally have an interface with the Georges River and are predominantly located along the waterfront and towards the west of the study area:

- Bush Suburban
- Garden Suburban (larger lots)
- Reserve Edge
- Park Edge
- Naturalistic Edge
- Semi-Natural Edge
- Naturalistic Headland

Character areas to the east of Georges River are largely assessed as having a lower sensitivity rating. This is due to the flatter topography, lower vegetation coverage as a result of contemporary developments and the dominant built form character.



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Figure 5 – Foreshore Character Typologies

The FSPA is an existing clause under the HLEP 2012, which seeks to protect the scenic and landscape amenity of parts of the former Hurstville LGA. The GRLEP 2020 will adopt this local provision across the entire LGA to include the Blakehurst and Kogarah Bay Wards to consistently regulate built form outcomes, reduce impacts of development and reinforce the dominance of vegetation and landscape over hard surfaces. Additional considerations including the protection and maintenance of the landscaped character within the FSPA are also proposed to be included in the GRLEP 2020.

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The proposed extent of the FSPA in the former Kogarah LGA has primarily been informed by the location of the foreshore localities identified within the existing Kogarah DCP and supplemented by the character typologies with higher sensitivities to change as identified by the Paper. This is due to the correlation between the existing larger lot size requirements in the foreshore localities and the FSPA.

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It should also be noted that whilst the character area of “Jetty’s and Marina Edge” is identified as having lower sensitivity to change by the Paper, these areas are included in the proposed FSPA for the purpose of consistently applying the FSPA to all waterfront localities across the Georges River foreshore, in accordance with the principle of achieving equity through harmonisation.

The exhibited Planning Proposal sought to reduce the extent of the existing FSPA in the former Hurstville LGA in accordance with the principles of equity and consistency. The extent of this FSPA was based on the character typologies with higher sensitivities to change as identified by the Paper as discussed above.

During the public exhibition of the draft GRLEP 2020, Council received over 400 submissions objecting to the removal of properties within the FSPA due to impacts associated with overdevelopment as result of the increased dual occupancy development potential and the loss of vegetation and biodiversity through overdevelopment.

In response, the Georges River Local Planning Panel (“LPP”), as the planning proposal authority, at its meeting dated 25 and 26 June 2020 resolved to amend the proposed FSPA to retain the existing extent of the FSPA identified by the HLEP 2012. These areas are included in addition to the exhibited extent of the FSPA in this amended Planning Proposal. The exhibited extent of the FSPA and the areas that have been added to the proposed FSPA in response to the submissions received are shown in **Figure 6** below.

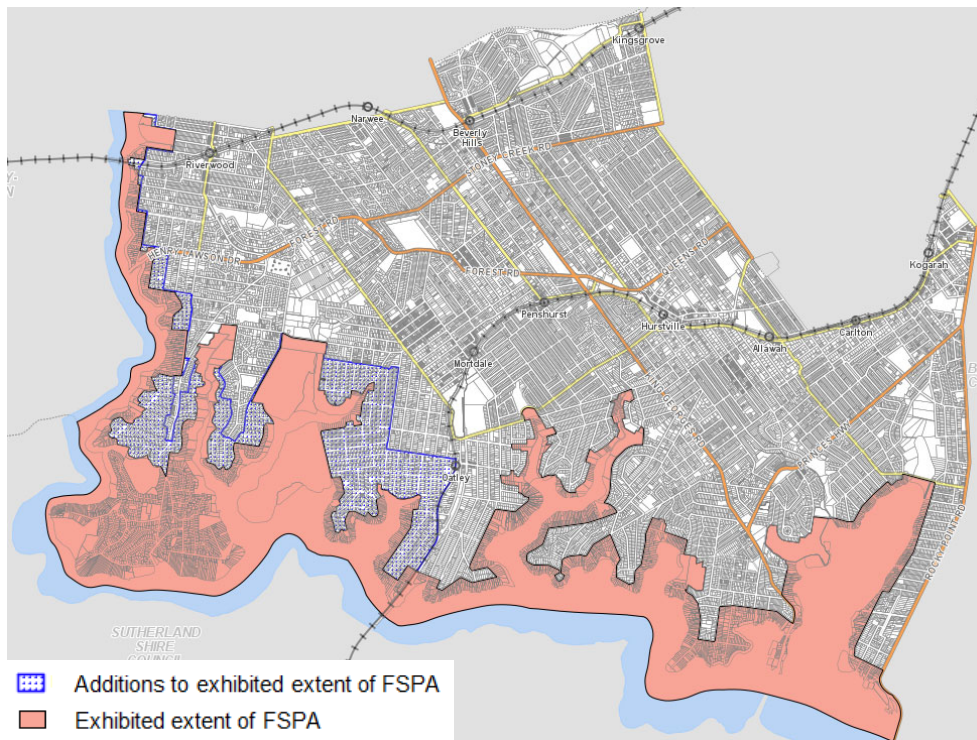


Figure 6 – Additions to the exhibited FSPA extent

The purpose of retaining the existing *HLEP 2012* extent of the FSPA within *GRLEP 2020* is to allow Council to further define the role, mapped extent and zoning of the FSPA consistently across the LGA as part of the preparation of a future LEP, especially as part of LEP 2021 or 2022. The LPP recommends that the future investigation give regard to those properties and ridge lines visible to and from the Georges River and its tributaries, and associated environmental protection applying to those areas in order to better reflect the objectives of the subject clause, which may include the consideration of additional environmental protection zones or modifications of the amended FSPA.

The amended extent of the FSPA is shown on the Foreshore Scenic Protection Area Map as provided in **Appendix 7** to this Planning Proposal.

Inclusion of this local provision will assist in ensuring the existing neighbourhood character for the FSPA is retained. This clause is also aligned with the principle of preparing the *GRLEP 2020* to enhance and protect the natural environment, especially in the foreshore area, as well as assisting in achieving the actions of the *South District Plan* and LSPS to protect waterways and coastal environments.

It should be noted that in response to the submission received from the EES during public exhibition, the proposed development considerations in this clause has been amended to emphasise the subject provision's objectives of protecting, maintaining and improving the FSPA through the additional requirements of avoiding disturbance and enhancing existing native vegetation.

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The drafting of this local provision is based on the drafting of Clause 6.3 Biodiversity protection of *Ku-ring-gai LEP 2015* and the current Foreshore scenic protection area clause within the *HLEP 2012*.

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Clause 6.8 Airspace operations

This clause seeks to ensure that development does not interfere with aircraft operations and the community is protected from undue risk from airport operations. As development in certain parts of the LGA could impact airport operations it is necessary to adopt this local provision.

The *HLEP 2012* and *KLEP 2012* contain an airspace operations provision but it is proposed to adopt the model local clause provided by the DPIE for the *GRLEP 2020* to ensure the clause reflects the requirements and objectives of Air Services Australia and a consistent approach is adopted for the LGA.

It should be noted that based on Council's preliminary discussions with the Commonwealth Department of Infrastructure, Regional Development and Cities as per the requirements of the Ministerial Direction 3.5 *Development Near Regulated Airports and Defence Airfields*, the model local clause wording has been amended in accordance with the advice received.

This Planning Proposal does not seek to change the intent or operation of the clause as it currently applies to land identified on the Obstacle Limitation Surface Map or the Procedures for Air Navigation Systems Operations Surface for all airports.

Clause 6.9 Development in areas subject to aircraft noise

This clause seeks to ensure that development does not interfere with aircraft operations and that noise sensitive development is prevented from being located near Sydney Kingsford Smith Airport and its flight paths. This clause is required to be included within the *GRLEP 2020* as land within the former Hurstville LGA is within the ANEF 2039 contours. Approximately 23 properties are affected within the former Hurstville LGA but no land is affected within the former Kogarah LGA.

It is intended that this clause will be based on the model local clause provided by DPIE which is similar to the clause adopted in the *KLEP 2012*. This Planning Proposal does not seek to change the intent or operation of the clause as it currently applies to land near Sydney Kingsford Smith Airport or land identified within the ANEF contour.

Clause 6.10 Essential services

This clause requires that development consent must not be granted to development unless the consent authority is satisfied that services essential for the proposed development are available or that adequate arrangements have been made to make them available when required. Essential services under this provision include:

- water,
- electricity,
- telecommunications facilities,
- disposal and management of sewage,
- management of stormwater, and
- suitable road and vehicular access.

This Planning Proposal seeks to include a similar clause in the *GRLEP 2020* to the one currently in the *HLEP 2012*. It does not seek to change the intent or operation of the clause.

Clause 6.11 Design excellence

In response to the LSPS vision for well-designed development, this local provision will introduce design excellence requirements for new developments and substantial redevelopments of 12m or greater in the high density residential, industrial and business zones, as well as developments in the FSPA such as dwelling houses, dual occupancies, bed and breakfast accommodation, health services facilities and marinas.

Council is adopting this local provision to ensure that a high standard of architectural and urban design is achieved within the LGA and to improve place making.

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In considering whether the development exhibits design excellence, the consent authority must have regard to a number of matters, including the following:

- SEPP 65 design quality principles;
- the suitability of the land for development;
- existing and proposed uses and use mix;
- heritage issues and streetscape constraints;
- the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form;
- bulk, massing and modulation of buildings;
- environmental impacts such as overshadowing, wind and reflectivity;
- incorporation of water sensitive urban design principles;
- principles of crime prevention through environmental design (CPTED);
- pedestrian, cycle, vehicular and service access and circulation requirements;
- the impact on, and any proposed improvements to, the public domain;
- the quality and integration of landscape design; and
- the impact of waste management facilities on the safety and amenity of the public domain.

No design competition is required by this clause. Instead, the consent authority will need to ensure the subject development satisfies the heads of consideration listed in this clause. The criteria include the suitability of the land for development, the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, bulk, massing and modulation of buildings.

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In response to the submission received from the NSW Environmental Protection Authority (“EPA”) during public exhibition, the provision relating to the consideration of waste management facilities has been strengthened as per EPA’s recommended wording.

Furthermore, the original requirement of a peer-review process has been removed in accordance with the outcomes of the LPP meeting dated 25 and 26 June 2020.

The drafting of this local provision is based on Clause 6.21 Design excellence of *Sydney LEP 2012* and Clause 6.9 Design excellence of *Waverley LEP 2012*.

Clause 6.12 Environmental sustainability in certain business, industrial and residential zones

This is a new local provision and is not currently included within either the *HLEP 2012* or *KLEP 2012*. This provision seeks to ensure that all development with a gross floor area of 1,500sqm or greater in industrial, business and high density residential zones embrace the best practice principles of environmentally sustainable development.

The local provision is aligned with the guiding principles of preparing the *GRLEP 2020* to promote good design and sustainable practices in large developments which are predominately located within the business, industrial and high density residential zones.

This provision will require that development applications consider the principles of best practice environmentally sensitive design including water efficiency, energy demand reduction, urban heat island effect, indoor environmental quality, reducing new material consumption and use of sustainable materials, and transport initiatives. The local provision requires a statement of verification to be submitted with the development application by an Australian Building Sustainability Association accredited assessor confirming the proposed development satisfies the environmentally sustainable principles.

The drafting of this local provision is based on Clause 6.6 Environmental sustainability of *Ryde LEP 2014*.

Clause 6.13 Landscaped areas in certain residential and environmental protection zones

This is a new local provision currently not included within the *HLEP 2012* or *KLEP 2012*. It seeks to introduce a landscaped area provision for residential and environmental protection zones in the LGA. Whilst the natural environment is repeatedly raised by the Georges River community as a highly valued asset, there has been a decrease in the provision of landscaping due to contemporary infill developments.

The landscaped area local provision has been introduced in the draft *GRLEP 2020* as a direct response to the Georges River community’s request for greater landscaping to be provided in new residential developments. As part of the extensive LSPS consultations, the ‘green and leafy’ characteristics of the LGA’s residential suburbs have been consistently highlighted by the Georges River community as a valued local character and concerns were

raised regarding the loss of landscaping as a result of new development, particularly evident through recent knock-down rebuilds and dual occupancies. The *LSPS 2040* commits to the following future vision in the Housing and Neighbourhoods theme:

Landscaping and trees around safe public spaces soften buildings, shade paved areas, reduce heat, minimise wind and bring life and greenery to local areas.

This local provision will ensure that new developments provide sufficient landscaping to soften and complement the built form and assist in protecting the biodiversity of the LGA, especially in the private domain, by requiring a minimum amount of landscaping to be provided in new developments. This clause seeks to enforce green infrastructure as a significant part of the local character by ensuring the retention and provision of vegetation that contributes to biodiversity and enhances the tree canopy of the LGA, whilst minimising urban run-off, the visual impact of development and the urban heat island effect.

The proposed minimum landscaped areas have been derived from a comparison of the landscaping requirements in the existing Hurstville and Kogarah DCPs against the requirements of the *Codes SEPP* (refer table below).

	Hurstville DCP Landscaped open space Min. 2m dimension	Kogarah DCP Deep soil (no structure above or below) No dimensions	Codes SEPP Landscaped area (as per Standard Instrument LEP) Min. 1.5m dimension	Proposed
Dwelling house (non-FSPA)	20%	15%	20%	20%
Dwelling house (FSPA)	25%	15%	30%	25%
Dual occ (non-FSPA)	20%	15%	35%	25%
Dual occ (FSPA)	25%	15%	40%	30%
Medium density	20%	Max. 55% impervious area	20% for terraces 37.5% for manor	20%
R4 zones (excludes apartments)	N/A	N/A	N/A	10%
E2 zone (only 1 site in LGA) Site area: 23,600sqm	N/A	None	N/A	70%

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Modelling and testing demonstrates that the proposed landscaped area requirements are achievable utilising the proposed *GRLEP 2020* development standards and existing dwelling house DCP setback controls. The diagrams below (refer **Figures 7-10**) illustrate that the minimum landscaped area requirements for dwelling houses is able to be achieved in both the non-FSPA and FSPA utilising existing DCP setback controls.

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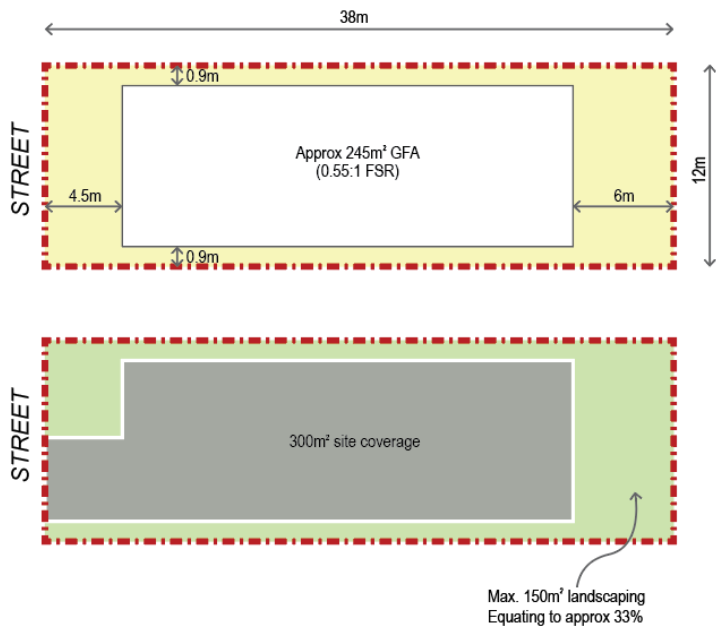


Figure 7 – Plan of single storey dwelling house on a 450sqm site (non-FSPA)

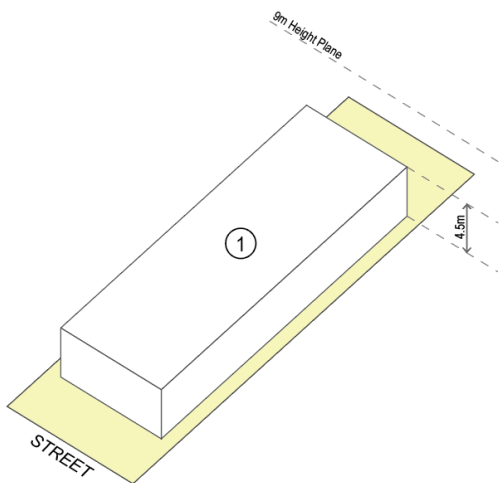


Figure 8 – Massing of single storey dwelling house on a 450sqm site (non-FSPA)

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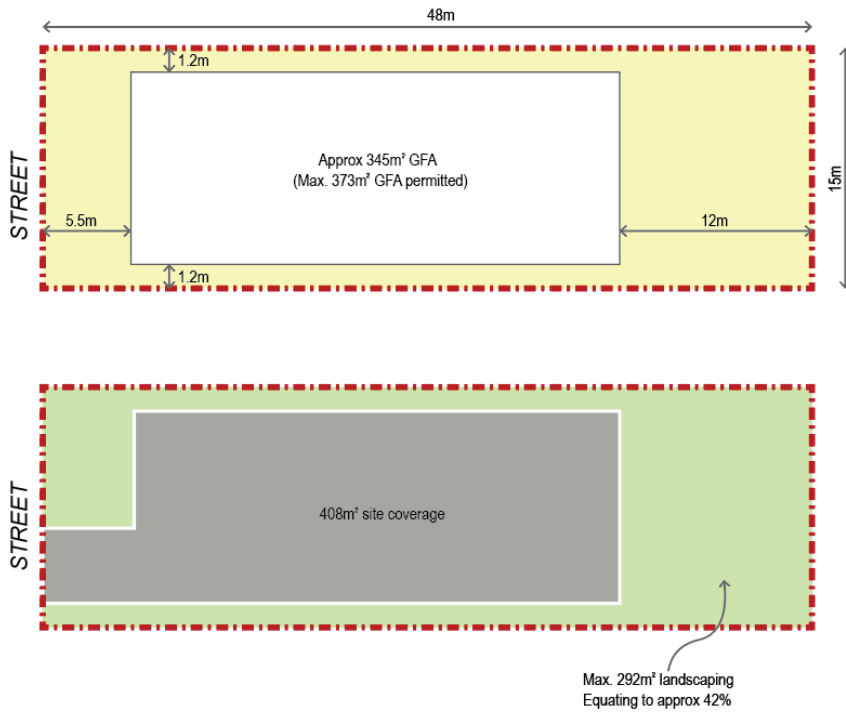


Figure 9 – Plan of single storey dwelling house on a 700sqm site (FSPA)

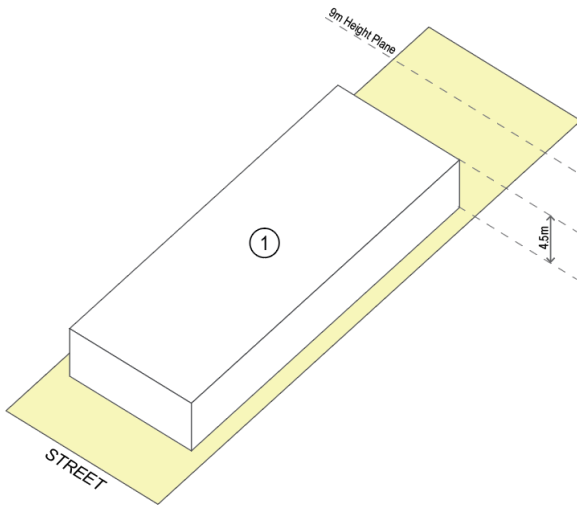


Figure 10 – Massing of single storey dwelling house on a 700sqm site (FSPA)

It should be noted that recent development trends tend to favour two storey dwelling houses to accommodate the demands of modern living, which will result in a significant reduction in the building footprint and overall site coverage. Accordingly, the minimum landscaped area requirement will be able to be achieved for two storey developments.

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Modelling and testing was also conducted for the increased dual occupancy landscaped area requirements, which have been increased as a post-exhibition amendment in response to the community concern for the loss of the 'green and leafy' characteristic of the LGA through recent dual occupancy developments in low density areas.

The diagrams below (refer **Figures 11-14**) illustrate that the minimum landscaped area requirements for dual occupancies are able to be achieved in both the non-FSPA and FSPA using a combination of existing DCP setback controls and draft controls that are currently being investigated for inclusion within the *Georges River Development Control Plan 2020*.



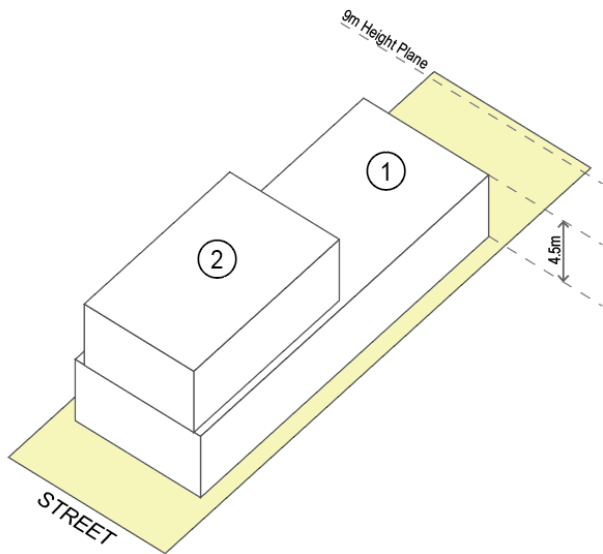


Figure 12 – Massing of two storey dual occupancy (side by side) on a 650sqm site (non-FSPA)

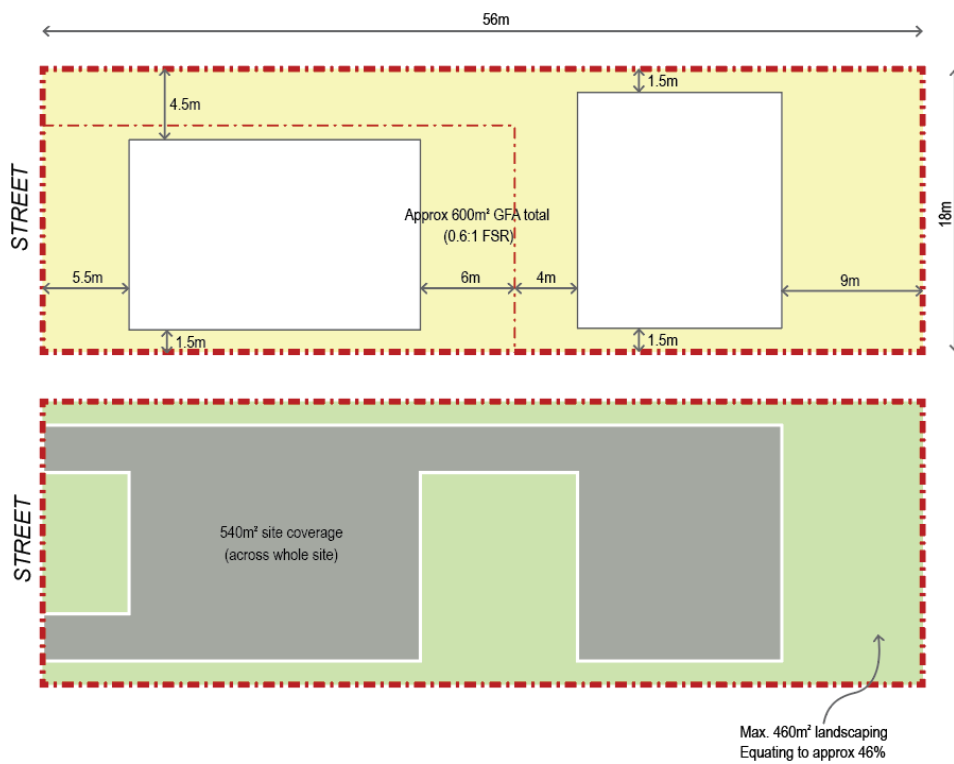


Figure 13 – Plan of two storey dual occupancy (side by side) on a 1,000sqm site (FSPA)

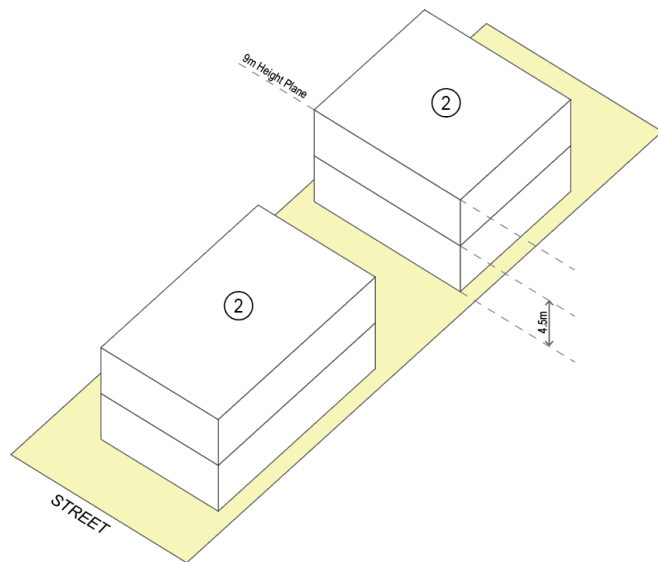


Figure 14 – Massing of two storey dual occupancy (front and back) on a 1,000sqm site (FSPA)

A minimum landscaped area requirement within the LEP provides greater legal weight to ensure the protection of local landscape character, the provision of sufficient tree canopy cover, building separation and deep soil to enable water infiltration to lessen the extent of urban runoff. It also promotes the protection and enhancement of the foreshore scenic protection area by requiring higher percentages of landscaping within this area for residential developments.

The local provision will require developments in the R2, R3, R4 and E2 zones to provide landscaped areas that:

- enable the establishment of plantings of an appropriate scale and density to maintain and enhance the streetscape and the desired future character of the locality;
- enhances privacy between dwellings;
- enables the establishment of indigenous vegetation and habitat for native fauna; and
- conserves significant natural features of the site.

For the purposes of calculating landscaped area, the *Standard Instrument LEP* definition is to be applied, being a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

The drafting of this local provision is based on Clause 6.6 Landscaped areas of *Mosman LEP 2012* and Clause 6.14 Landscaped areas in certain residential, business, industrial and environment protection zones of *Sutherland LEP 2015*.

Clause 6.14 Development for the purposes of dual key dwellings in Zones R2 and R3

This is a new local provision which is currently not included within the *KLEP 2012* or *HLEP 2012*. This provision is intended to incentivise the development of 'internal' secondary dwellings which are wholly contained within the principal dwelling in low and medium density residential zones.

This clause has been developed in response to the findings of the *Evidence Base* for the *Local Housing Strategy* which identifies that the LGA needs to provide a greater diversity of dwellings to accommodate both the ageing population who are looking to downsize in their local area and the younger working age group who are looking for affordable accommodation.

To incentivise the conversion of under-utilised spaces within under occupied dwellings, such as an empty-nester's larger family home, a proposed 'internal secondary dwelling' may be up to 75sqm GFA. An example of a dual key dwelling development would be the conversion of a 'rumpus room' into a separate dwelling.

As dual key dwellings would be wholly contained within the existing building envelope, they would have no impact on the streetscape character of low and medium density neighbourhoods.

It should be noted that since secondary dwellings are a permissible land use within the proposed R2 Low Density Residential and R3 Medium Density Residential zones under the *GRLEP 2020*, an alternative term is required to identify this form of 'internal secondary dwelling' to ensure the two development typologies can be differentiated. The term "dual key dwelling" is proposed, referencing the dual key apartment product where there is a self-contained studio accessed by a shared hallway inside the main apartment. Alternative references such as "studios" were considered but not adopted due to the similarities between the term and "studio apartments".

It is proposed that this provision be excluded from the application of Clause 4.6 Exceptions to development standards to ensure the density of the development is appropriate in low and medium density residential areas.

The drafting of this local provision is based on Clause 6.10 Development for the purposes of secondary dwellings in Zones R2 and R3 of *Warringah LEP 2011*.

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Clause 6.15 Development in certain business zones

This clause is intended to replace the existing Active Street Frontage local provision in the *HLEP 2012* and be applied to all business zones across the LGA where shop top housing is permitted.

The aims of this clause are to promote uses that attract pedestrian traffic at street level and provide active, commercial uses at the street frontage as any development within the B1, B2, B4 and B6 Zones must not include a residential land use or tourist and visitor accommodation on the ground floor of a building that is facing a street.

This clause also implements the requirement for a minimum of 500sqm of non-residential floor space to be provided at the ground floor of developments in the B6 Enterprise Corridor zone to facilitate the development of large floor plates that are capable of accommodating a range of employment uses, including specialised retail premises and light industrial uses.

It should be noted that this clause is intended to complement the minimum non-residential FSR requirement in its application so that opportunities are maintained for business and retail development in commercial centres.

These clauses have been informed by Council's draft *Commercial Centres Strategy – Part 1* which identifies that the existing supply of employment floor space within the LGA's centres is insufficient to support the growing population or to meet District Plan job targets by 2036. To ensure the ongoing viability of centres, this Planning Proposal proposes employment floor space requirements to reduce the loss of employment floor space through infill development.

The drafting of this local provision is based on the current active street frontages local provision within the *HLEP 2012*, the development in Zone B6 local provision within the *KLEP 2012*, and Clause 6.12A Residential flat buildings in Zone B4 Mixed Use of *North Sydney LEP 2013*.

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Clause 6.16 Take away food and drink premises and restaurants or café in Zone IN2

This clause seeks to meet the needs of those who work within or visit the industrial precincts while ensuring that the town centres retain the focus for business and retail activity by limiting the size of food and drink retailing in the industrial zone.

It is proposed that a maximum of 20% of the GFA of the industrial activity located on the same land or 200sqm, whichever is the lesser, may be permitted for food and drink retailing in the IN2 Light Industrial zone.

It is proposed that this provision be excluded from the application of Clause 4.6 Exceptions to development standards to ensure industrial uses remain the core land use in the IN2 Light Industrial zone.

The drafting of this local provision is based on Clause 7.25 Food and drink premises and shops in Zone B1 of *Liverpool LEP 2008*.

Clause 6.17 Creative Industries in Zone IN2

This local provision is intended to encourage a diverse range of industries (including creative and innovative industries) that do not compete with commercial centres and do not compromise industrial and urban services within the IN2 zone.

The local provision will apply to two areas, Penshurst Lane, Penshurst (**Figure 15**) and Halstead Street, South Hurstville (**Figure 16**):

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Figure 15 - Area 1 - Penshurst Lane, Penshurst

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Figure 16 - Area 2: Halstead Street, South Hurstville

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This clause seeks to foster a diverse range of industries within the above precincts, including creative and innovative industries such as media, advertising, fine arts and craft, design, film and television, music, publishing, performing arts, cultural heritage institutions or other related purposes.

Council's *Industrial Land Review* has identified that these areas are compromised by their location in terms of attracting industrial uses and investment. The types of industrial activities that can be located in these precincts are constrained due to the amenity impacts of traditional industrial land uses on the surrounding low density residential land.

The Penshurst Lane industrial area has a large number of vacant strata units and the total employment numbers are low. Its close proximity to the B2 local centre makes the precinct

accessible and ideal for creative industries. The Halstead Street area is surrounded by residential and open space areas with limited links to other industrial areas and infrastructure, restricting the range of industrial activities that can be appropriately located in this precinct.

No floor space restrictions on creative industries will be imposed in order to encourage the economic viability of these areas and assist in achieving the *South District Plan* objective and *LSPS 2040* Action A60 to encourage and support more creative industries by allowing more affordable IN2 land for these uses.

The drafting of this local provision is based on the *Marrickville LEP 2011* local provision for business and office premises in certain zones.

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Clause 6.18 Location of sex services premises

This clause seeks to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children. This Planning Proposal seeks to include this clause in the *GRLEP 2020* which is based on the current provision in the *HLEP 2012* and *KLEP 2012*. The proposed clause does not seek to change the intent or operation of the existing clause.

The drafting is based on the existing local provisions and will mean that development consent will not be granted for sex service premises on land which is separated only by a road or is within 50m from land within the R2, R3 or R4 zone or on land adjoining or across the road from land used for residential purposes, places of public worship, community or school uses, public recreation and environmental conservation areas. The local provision also sets out the matters for Council to consider when determining whether to grant consent for a sex service premises.

Clause 6.19 Tree protection and landscaping in Zones R2 and R3

This is a new local provision which is currently not included within the *KLEP 2012* or *HLEP 2012*. This clause has been developed in response to the key issues raised by the community during the public exhibition of the draft *GRLEP 2020*, concerning the loss of tree canopy and the gradual diminish of natural characteristics as result of recent development activities where extensive tree removals have been approved to make way for larger dwelling houses, dual occupancies and/or secondary dwellings in the low density areas.

The intent of this clause is to ensure any development undertaken on land in the R2 Low Density Residential and the R3 Medium Density Residential zones maintains and enhances the landscaped character of the neighbourhood and contributes to the tree canopy of the local government area.

This clause will apply to all developments in the R2 and R3. The development must consider the contribution made by existing trees to the natural landscape or local character of the locality including environmental, heritage, cultural and amenity factors. The development

must also be sited in a well-designed landscaped setting that is integrated to protect the existing tree, including the implementation of Tree Protection Zones.

At the minimum, this clause requires one mature tree to be provided per site. Where the removal of an existing tree can be justified, this clause requires that two replacement trees of an appropriate species and size be planted onto the subject site, or an offset fee be paid to Council to ensure the replacement trees are located elsewhere in the LGA to ensure there is a net increase in tree canopy coverage.

Furthermore, the reference to locally endemic tree species enables Council to enforce the removal of exotic tree species as part of development applications and the provision of locally endemic species as replacements. This will promote the provision of landscaping that is appropriate to the local climate and encourage the creation of a natural habitat suitable for native animals.

The application of this local provision will be supported by Council's *Tree Management Policy* which was implemented in April 2019. This Policy recognises the importance of the tree canopy throughout the LGA and implements measures to achieve minimum 40% urban tree canopy by 2038 in accordance with the target specified by the Greater Sydney Region Plan.

The drafting of this local provision is based on Clause 6.14 Landscaped areas in certain residential, business, industrial and environment protection zones of *Sutherland LEP 2015*.