

# Chapter A1 Introduction

Part A → Introduction and Administration

CHAPTER A1 APPROVED ON 27 APRIL 2015

AND COMMENCED ON 23 MAY 2015

Last amended on 12 April 2021

Repealed by WDCP 2015 Amendment No 14, 16 & 17 on 30 August 2021

# Chapter A1 ▶

## Introduction

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Repealed by WDCP 2015 Amendment No 14, 16 & 17 on 30 August 2021

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## A1.1 About this development control plan

### A1.1.1 Name of development control plan

This plan is Woollahra Development Control Plan 2015 (DCP).

This DCP has been prepared consistent with Part 3, Division 6 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation 2000* (Regulation).

### A1.1.2 Commencement

This plan was adopted by Council on 27 April 2015 and commenced on 23 May 2015.

### A1.1.3 Land where this plan applies

This plan applies to all land within the Woollahra Municipality.

### A1.1.4 Development to which this plan applies

This plan applies to development requiring consent under the Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014).

Under section 79C of the EP&A Act, Council is required to take into consideration the relevant provisions of any applicable DCP when determining an application for development.

### A1.1.5 Objectives of this plan

The Woollahra DCP is Council's main non-statutory document for regulating development, establishing the detailed planning and design guidelines for development across the municipality.

The overarching objectives of the DCP are:

- 01 To give effect to the aims of Woollahra LEP 2014.
- 02 To facilitate development that is permissible under Woollahra LEP 2014 with reference to the unique characteristics of the area where the development is proposed.
- 03 To achieve the objectives contained in Woollahra LEP 2014.
- 04 To establish controls that provide a balance between flexibility and certainty in the development assessment process.

O5 (Repealed)

O6 To establish a consistent set of definitions for terms used in the DCP.

Note: In addition to these overarching objectives, the objectives in each chapter of the DCP also apply to development.

### A1.1.6 Definitions

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The definitions in Chapter A3 of this part define words and expressions for the purpose of this DCP. Where specified in Chapter A3, a word or expression used in this DCP can have the same meaning as it has in Woollahra LEP 2014.

### A1.1.7 Relationship to other documents

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#### State environmental planning policies

State environmental planning policies (SEPPs) may apply to the land to which this DCP applies. Where this occurs, the statutory provisions of those SEPPs prevail over this DCP.

Clause 6A of SEPP No 65 Design Quality of Residential Apartment Development sets out the relationship between certain provisions contained in Parts 3 and 4 of the Apartment and Design Guide (NSW Department of Planning and Environment, June 2015) and provisions in a development control plan. Clause 6A makes the objectives, design criteria and guidelines for the following eight matters in the Apartment and Design Guide prevail over a DCP. The eight matters are:

Visual privacy (Part 3F)

Solar and daylight access (Part 4A)

Natural ventilation (Part 4B)

Ceiling heights (Part 4C)

Apartment size and layout (Part 4D)

Private open space and balconies (Part 4E)

Common circulation and spaces (Part 4F)

Storage (Part 4G)

Those provisions in Woollahra DCP 2015 that specify requirements, standards or controls that relate to any of the eight matters listed in clause 6A and contained in Parts 3 and 4 of the Apartment Design Code have no effect in the assessment and determination of a development application for development to which SEPP No 65 applies.

All other provisions of Woollahra DCP 2015 can be applied to the assessment and determination of a DA for development to which SEPP No 65 applies.

## Woollahra LEP 2014

This DCP supplements the requirements of Woollahra LEP 2014 and must be read in conjunction with the LEP. If there is any inconsistency between this DCP and Woollahra LEP 2014, the LEP prevails.

## Woollahra Community Participation Plan

Division 2.6 of the EP&A Act sets out the mandatory community participation requirements with respect to the exercise of relevant planning functions. It states that the mandatory requirements are those identified in:

- ▶ Part 1 Schedule 1 of the EP&A Act, and
- ▶ a community participation plan prepared under Division 2.6.

The Woollahra Community Participation Plan sets out how and when Council will undertake community participation when exercising relevant planning functions. This includes notification of development applications and applications to modify a development consent.

## Contributions plans

Section 94 of the EP&A Act contains provisions that allow Council to impose, as a condition of development consent or as a condition of a Complying Development Certificate, a requirement that the applicant dedicate land free of cost, or pay a monetary contribution, or both. This is in order to meet demand for public amenities and public services, the demand for which would be generated by the proposed development.

Section 94A of the EP&A Act contains provisions that allow Council to impose, as a condition of development consent or as a condition of a Complying Development Certificate, a requirement that the applicant pay a levy based on a percentage of the proposed cost of carrying out the development.

These contributions are used for providing, extending or augmenting public facilities such as recreational open space or public car parking. The development contributions plans supplement the provisions of Woollahra LEP 2014 and DCP.

### A1.1.8 Repealed development control plans

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This DCP repeals the following DCPs:

- ▶ Woollahra Residential DCP 2003;
- ▶ Paddington Heritage Conservation Area DCP 2008;
- ▶ Woollahra Heritage Conservation Area DCP 2003;
- ▶ Watsons Bay Heritage Conservation Area DCP 2003;
- ▶ Double Bay Centre DCP 2002;
- ▶ Edgecliff Commercial Centre DCP 1995;
- ▶ Rose Bay Centre DCP 2000;
- ▶ Neighbourhood Centres DCP 2009;
- ▶ 13 Albert Street, Edgecliff DCP (Monte Oliveto) 2000;
- ▶ Babworth House DCP 1999 (103 Darling Point Road, Darling Point);
- ▶ Bishopscourt DCP 1995 (11 Greenoaks Avenue, Darling Point);
- ▶ 9 Cooper Park Road, Bellevue Hill DCP 1995;
- ▶ 9a Cooper Park Road, Bellevue Hill DCP 2014;
- ▶ Hawthornden DCP 1996 (6-12 Roslyndale Avenue, Woollahra);
- ▶ Kilmory DCP 2002 (6 Wentworth Street, Point Piper);
- ▶ 188 Oxford Street, Paddington and Part Lot 1 DP 215537 DCP 1997;
- ▶ 118 Wallis Street, Woollahra DCP 1995;
- ▶ Advertising and Notification DCP 2007;
- ▶ Exempt and Complying DCP 2005;
- ▶ Parking DCP 2011;
- ▶ Access DCP 2004;
- ▶ Contaminated Land DCP 2010;
- ▶ Site Waste Minimisation and Management DCP 2010;
- ▶ Child Care Centres DCP 2006;
- ▶ Educational Establishments DCP 2012; and
- ▶ Woollahra Telecommunications and Radiocommunications DCP 2004;
- ▶ Draft Flood Risk Management DCP; and
- ▶ Draft Stormwater Drainage Management DCP.

This DCP also repeals various policies and codes including: Code for Advertising (1987), Development Control Guidelines for the Provision of Foreshore Open Space and Access (1991), Private Stormwater Code (2009) and the Landscape Code (1988).



### A1.1.9 Savings and transitional provisions relating to development applications

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Despite Section 1.1.8 regarding the repeal of DCPs, policies and codes, the DCPs listed in Section 1.1.8 above will continue to apply to development applications (DAs), applications to modify development consents and applications for review of a determination, that were made prior to but not determined on the date of commencement of this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development applications, applications to modify consents under section 96 of the EP&A Act and applications for review of determinations under section 82A of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 1 to this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development applications, applications to modify consents under section 96 of the EP&A Act and applications for review of determinations under section 82A of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 2 to this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development applications, applications to modify consents under section 96 of the EP&A Act and applications for review of determinations under section 82A of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 3 to this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development applications, applications to modify consents under section 96 of the EP&A Act and applications for review of determinations under section 82A of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 4 to this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development applications, applications to modify consents under section 4.55 of the EP&A Act and applications for review of determination under Division 8.2 Reviews of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 7 to this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development applications, applications to modify consents under section 4.55 of the EP&A Act and applications for review of determination under Division 8.2 Reviews of the EP&A Act that were made prior to but not determined before the commencement of Amendment No. 8 to this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development applications, applications to modify consents under section 4.55 of the EP&A Act and applications for review of determination under Division 8.2 Reviews of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 9 to this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development applications, applications to modify consents under section 4.55 of the EP&A Act and applications for review of determinations under Division 8.2 Reviews of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 10 to this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development applications, applications to modify consents under section 4.55 of the EP&A Act and applications for review of determination under Division 8.2 Reviews of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 11 to this DCP.

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This DCP (as commenced on 23 May 2015) continues to apply to development application to modify consents under section 4.55 of the EP&A Act and applications for review of determination under Division 8.2 Reviews of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 13 to this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development application to modify consents under section 4.55 of the EP&A Act and applications for review of determination under Division 8.2 Reviews of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 5 to this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development application to modify consents under section 4.55 of the EP&A Act and applications for review of determination under Division 8.2 Reviews of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 12 to this DCP.

This DCP (as commenced on 23 May 2015) continues to apply to development application to modify consents under section 4.55 of the EP&A Act and applications for review of determination under Division 8.2 Reviews of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 15 to this DCP.

## A1.2 Structure of this development control plan

This DCP contains seven parts, and comprises chapters within each part. The content structure of the DCP is illustrated in the table below.

Applicants and designers must read all applicable parts of the DCP to ensure they have met the DCP's requirements.

Woollahra DCP 2014	Where the parts apply
<b>Part A: Introduction and Administration</b> A1 Introduction A2 (Repealed) A3 Definitions	<b>Part A</b> applies to all DAs.  It contains information for all applications including the dictionary that defines the words and expressions used in this DCP.
<b>Part B: General Residential</b> B1 Residential Precincts B2 Neighbourhood Heritage Conservation Areas B3 General Development Controls	<b>Part B</b> applies to DAs proposed on land located within the residential precincts of Darling Point, Double Bay, Wallaroy, Manning Road, Point Piper, Bellevue Hill South, Bellevue Hill North, Rose Bay, Vaucluse West, and Vaucluse East or within the neighbourhood heritage conservation areas of Etham Avenue, Darling Point Road, Mona Road, Loftus Road and Mona Road, Aston Gardens, Victoria Road, Balfour Road, Beresford Estate, Rose Bay Gardens Estate, Kent Road and Bell Street.
<b>Part C: Heritage Conservation Areas</b> C1 Paddington HCA C2 Woollahra HCA C3 Watsons Bay HCA	<b>Part C</b> applies to DAs proposed on land located within the heritage conservation areas of Paddington, Woollahra and Watsons Bay.
<b>Part D: Business Centres</b> D1 Neighbourhood Centres D2 Mixed Use Centres D3 General Controls for Neighbourhood and Mixed Use Centres D4 Edgecliff Centre D5 Double Bay Centre D6 Rose Bay Centre	<b>Part D</b> applies to DAs proposed on land zoned Edgecliff, Double Bay and Rose Bay Centres, as well as to land zoned B1 Neighbourhood Centre or B4 Mixed Use under Woollahra LEP 2014.

Woollahra DCP 2014	Where the parts apply
<b>Part E: General Controls for All Development</b> E1 Parking and Access E2 Stormwater and Flood Risk Management E3 Tree Management E4 Contaminated Land E5 Waste Management E6 Sustainability E7 Signage E8 Adaptable Housing	<b>Part E</b> contains general controls which can apply to development irrespective of location.  It establishes controls that all applications must consider.
<b>Part F: Land Use Specific Controls</b> F1 Child Care Centres F2 Educational Establishments F3 Licensed Premises F4 Telecommunications	<b>Part F</b> applies to DAs relating to specific development types.  The controls in Part F apply in addition to the controls in Parts B, C or D (as relevant).
<b>Part G: Site-Specific Controls</b> G1 Babworth House, Darling Point G2 Kilmory, Point Piper G3 Hawthornden, Woollahra G4 9a Cooper Park Road, Bellevue Hill G5 3-9 Sisters Lane, Edgecliff G6 4A Nelson Street and 118 Wallis Street, Woollahra G7 Former Royal Women's Hospital, Paddington	<b>Part G</b> applies to DAs proposed on specific sites.  The controls in Part G apply in addition to the controls in Parts B, C or D (as relevant).

## A1.3 The development assessment process

Development and building works can be classified as exempt development, complying development, or development which requires consent from the relevant planning authority, which in most cases is Council.

Exempt development applies to minor development which does not require any approval. Complying development requires a complying development certificate to be issued by a principal certifying authority, which can be either Council or a private certifier.

Development that is exempt or complying development is set out in:

- ▶ Woollahra LEP 2014 (Schedule 2 and 3); and
- ▶ Various SEPPs including: *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, *State Environmental Planning Policy (Infrastructure) 2007*, and *SEPP (Affordable Rental Housing) 2009*.

All other development requires consent. This DCP applies to development that requires consent.

Applicants should ensure development complies with the objectives and controls in both the LEP and this DCP.

### A1.3.1 Development that requires consent

In the Woollahra Municipality, due to the topography, proximity to the harbour and the nature of the development proposals, development consent from Council is usually required for the following activities, unless otherwise specified in a SEPP:

- ▶ to erect a new building or structure, or to add to or alter an existing building;
- ▶ to carry out development relating to a heritage item listed under Woollahra LEP 2014;
- ▶ to demolish a building;
- ▶ to change the use of an existing building or parcel of land to another use;
- ▶ to subdivide land or strata subdivide a building; and
- ▶ to carry out earthworks, excavation or filling.

Applicants are strongly advised to make an appointment for a formal pre-DA consultation with Council's Assessment Officers before detailed plans for the proposal are drawn up. This will help to identify important issues at an early stage and avoid later problems in the assessment process.

Before lodging a development application, applicants must also consider whether the proposal will require other approvals or licences from a NSW Government agency, in addition to Council's development consent. In these cases, Council will refer the application to the relevant agency so that there is an integrated assessment of the proposal. These referral agencies include the Roads and Maritime Services, Office of Environment & Heritage and the Department of Primary Industries.

To assist applicants, Council has also prepared a DA Guide which explains how to prepare a development application.

### A1.3.2 How applications are assessed

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Development applications are assessed by Council under the EP&A Act. Council assesses applications on their merits having regard to Woollahra LEP 2014 and this DCP.

However, compliance with Woollahra LEP 2014 and this DCP does not guarantee Council's approval. In particular, the following factors in section 79C of the EP&A Act must also be taken into account:

- ▶ the provisions of any other environmental planning instrument and any other development control plan applying to the land;
- ▶ the provisions of any planning agreement that has been entered into under section 93F of the EP&A Act, or any draft planning agreement that a developer has offered to enter into under section 93F;
- ▶ any relevant provisions of the Regulation;
- ▶ the provisions of any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*) that apply to the land to which the development application relates;
- ▶ the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
- ▶ the suitability of the site for the development;
- ▶ any submissions made in accordance with the EP&A Act or the Regulation; and
- ▶ the public interest.

### A1.3.3 How applications are determined

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Development applications can be determined at a local government level in one of four ways depending on the significance of the proposal, the level of non-conformity with Council's development controls and the number of objections received:

1. Delegated determination by a Council officer.
2. Determination by the Application Assessment Panel, which comprises senior Council officers.
3. Determination by the Woollahra Local Planning Panel, which comprises three approved independent persons with relevant expertise and a representative of the local community who is not a councillor or mayor.
4. Determination by the relevant Sydney district and regional planning panel, which comprises three members appointed by the Minister and two council nominees.

## A1.4 List of amendments

Amendment	Date of approval and commencement	Description of amendment
No 1	Date approved - 12 December 2016  Date commenced - 21 December 2016	Replace Chapter E1 Parking and Access updating existing provisions and inserting new provisions for vehicle parking and access
No 2	Date approved - 10 April 2017  Date commenced - 19 April 2017	Replace Chapter B3 General Development Controls inserting new objectives for design excellence, simplify setback controls and other minor amendments relating to wall height controls, acoustic and visual privacy, on-site parking, landscaping, swimming pools, outbuildings, fence and battle-axe lot controls
No 3	Date approved - 26 November 2018  Date commenced - 2 January 2019	Amend chapter B3 General Development controls to insert a new section called B3.5.5 - Internal Amenity to ensure that rooms in a dwelling, particularly rooms that are located below natural ground level, have high levels of indoor residential amenity for health and well-being.
No 4	Date approved - 26 November 2018  Date commenced - 2 January 2019	Amend Chapter B3 General Development Controls by amending and inserting various objectives, controls, introductions and notes relating to: <ul style="list-style-type: none"> <li>• Roof forms and roof structures</li> <li>• Plant equipment (including lifts and lift over runs)</li> <li>• Planting on elevated areas</li> <li>• Use of reflective material.</li> </ul>
No 5	Date approved - 20 October 2020  Date commenced - 7 December 2020	The amendment responds to the introduction of the Low Rise Housing Diversity Code.  The amendments are distributed throughout the DCP and insert references to the new housing types of Manor house and Multi dwelling housing (terraces) alongside existing references to residential flat buildings and multi dwelling housing.
No 7	Date approved - 11 November 2019  Date commenced - 2 January 2020	Chapter A3 Definitions: Amend definitions for “infill” and “pavilion”. Insert new definition for “courtyard”.  Chapter C1 Paddington Heritage Conservation Area: Amend and insert various objectives, controls, introductions and notes relating to single storey buildings, multi-storey terrace style housing, infill development and general controls for all development.

Amendment	Date of approval and commencement	Description of amendment
No 8	Date approved - 9 December 2019  Date commenced - 20 January 2020	Amend Chapters D5 Double Bay Centre, E5 Waste Management and F3 Licensed Premises by modifying and amending various introductions, controls and objectives to: <ul style="list-style-type: none"> <li>• Address potential tensions between business activities and residential amenity in Double Bay.</li> <li>• Insert examples of design solutions that could reduce noise transmission in Double Bay.</li> <li>• Address noise and nuisance arising from waste and recycling collections.</li> <li>• Amend bin sizes and types for Paddington and West Woollahra.</li> </ul>
No 9	Date approved - 11 November 2019  Date commenced - 2 January 2020	Amend Chapter A1 by inserting additional savings and transitional provisions.  Amend Chapter E1 Parking and Access by modifying and amending various sections, controls and objectives to: <ul style="list-style-type: none"> <li>• Update electric vehicle circuitry controls to reflect evolving industry and policy development.</li> <li>• Insert mandatory requirements for electric circuitry to accommodate future installation of electric vehicle charging points.</li> <li>• Insert mandatory requirements for electric vehicle charging points in certain developments.</li> </ul>
No 10	Date approved - 25 November 2019  Date commenced - 2 January 2020	Repeal Chapter A2 Advertising and Notifications and amend Chapter A1 General Development Controls to remove references to the repealed Chapter A2 and insert relevant references to the Woollahra Community Participation Plan.
No 11	Date approved - 24 February 2020  Date commenced - 16 March 2020	Amend Chapter A1 by inserting additional savings and transitional provisions.  Amend Chapter D4 Edgecliff Centre, D5 Double Bay Centre and D6 Rose Bay Centre by adding various sections, controls and objectives for public art in major development.
No 12	Date approved - 22 February 2021  Date commenced - 12 April 2021	Amend Chapter C1 Paddington Heritage Conservation Area by inserting additional objectives and controls relating to the protection of pub buildings.



Amendment	Date of approval and commencement	Description of amendment
No 13	<p>Date approved - 29 September 2020</p> <p>Date commenced - 12 October 2020</p>	<p>Chapter A3 Definitions: insert the definition for “courtyard housing”. Delete the definition for “pavilion”.</p> <p>Chapter C1 Paddington Heritage Conservation Area: Amend clause 1.3.1 Single storey buildings, clause 1.4.3 Rear elevations, rear additions, significant outbuildings and yards and Table 8 in clause 1.5.8 Materials, finishes and details. Amendments include:</p> <ul style="list-style-type: none"> <li>replacing the definition of “pavilion” with “courtyard housing”</li> <li>adding and amending controls and diagrams for rear additions to single storey buildings.</li> </ul>
No 15	<p>Date approved - 22 March 2021</p> <p>Date commenced - 12 April 2021</p>	<p>Amend Chapter A1 by inserting additional savings and transitional provisions.</p> <p>Amend Part B Chapter B3; Part C Chapters C1, C2 and C3; Part D Chapter D3 and Part G Chapter G4 by modifying and amending various sections, controls and objectives to strengthen controls for air conditioning and other mechanical plant equipment to help protect streetscape character and amenity.</p>