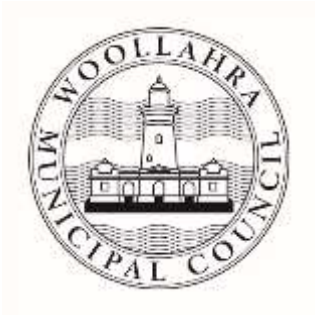


Urban Planning Committee Agenda



Agenda: *Urban Planning Committee*

Date: *Monday 27 March 2017*

Time: *5.30pm*

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

Recommendation only to the Full Council:

- Such matters as are specified in Section 377 of the Local Government Act and within the ambit of the Committee considerations.
- Broad strategic matters, such as:-
 - Town Planning Objectives; and
 - major planning initiatives.
- Matters not within the specified functions of the Committee.
- Matters requiring supplementary votes to Budget.
- Urban Design Plans and Guidelines.
- Planning Proposals and Local Environment Plans.
- Residential and Commercial Development Control Plans.
- Rezoning applications.
- Heritage Conservation Controls.
- Commercial Centres Beautification Plans of Management.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive changes.

Delegated Authority:

- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of the Minutes of its Meetings.
- Any other matter falling within the responsibility of the Urban Planning Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed above.
- Statutory reviews of Council's Delivery Program and Operational Plan.

Committee Membership: 6 Councillors

Quorum: The quorum for a Committee meeting is 4 Councillors.

Woollahra Municipal Council

Notice of Meeting

22 March 2017

To: Her Worship the Mayor, Councillor Toni Zeltzer ex-officio
Councillors Katherine O'Regan (Chair)
Ted Bennett (Deputy Chair)
Luise Elsing
James Keulemans
Matthew Robertson

Dear Councillors

Urban Planning Committee – 27 March 2017

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Urban Planning Committee** meeting to be held in the **Thornton Room (Committee Room)**, 536 New South Head Road, Double Bay, on Monday 27 March 2017 at **5.30pm**.

Gary James
General Manager

Meeting Agenda

Item	Subject	Page
1.	Leave of Absence and Apologies	
2.	Late Correspondence	
3.	Declarations of Interest	

Items to be Decided by this Committee using its Delegated Authority

D1	Confirmation of Minutes of Meeting held on 13 March 2017 - 17/36096	7
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Items to be Submitted to the Council for Decision with Recommendations from this Committee

R1	Public exhibition of Woollahra Development Control Plan 2015 (Amendment No. 2) - Chapter B3 General Development Controls - 17/26852	9
R2	Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, and associated documents - 17/32612	349

Item No: D1 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF MEETING HELD ON 13 MARCH 2017**
Author: Sue O'Connor, Secretarial Support - Governance
File No: 17/36096
Reason for Report: The Minutes of the Urban Planning Committee of 13 March 2017 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

Recommendation:

That the Minutes of the Urban Planning Committee Meeting of 13 March 2017 be taken as read and confirmed.

Item No: R1 Recommendation to Council
Subject: **PUBLIC EXHIBITION OF WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015 (AMENDMENT NO. 2) - CHAPTER B3 GENERAL DEVELOPMENT CONTROLS**
Author: Anne White, Acting Team Leader - Strategic Planning
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 17/26852
Reason for Report: To report on the public exhibition of Draft Woollahra Development Control Plan 2015 (Amendment No. 2) – Chapter B3 General Development Controls and to obtain Council’s approval of the Draft DCP.
To seek Council’s approval to introduce floor space ratio controls and revised excavation controls.
To seek Council’s endorsement of the working party to investigate appropriate floor space ratio controls and revised excavation controls.

Recommendation:

- A. THAT Council approve Draft Woollahra Development Control Plan 2015 (Amendment No. 2) – Chapter B3 General Development Controls as attached at **Annexure 1** to the report to the Urban Planning Committee of 27 March 2017.
- B. THAT Council proceed with the introduction of floor space ratio controls to apply to low density residential development.
- C. THAT Council continue the working party process to investigate appropriate floor space ratio and revised excavation controls.
- D. THAT a report be presented to the Urban Planning Committee with the findings and recommendations of the working party in relation to floor space ratio and excavation controls.

1. Background

On 27 April 2015, Council resolved to establish a working party to review *Chapter B3 General Development Controls* of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015). In particular, the review would look at the controls relating to building bulk, scale, envelope, floorplates, setbacks and site excavation. The working party consists of staff from the planning and development team, two Councillors, an independent advisor and four practitioners.

The working party has met seven times, and has provided a productive forum to discuss the strengths and weaknesses of the existing planning controls in Chapter B3 and advocate potential new approaches to controlling building bulk in the Woollahra LGA. An overview of the first two meetings (held on 15 September 2015 and 13 October 2015) was reported to the Urban Planning Committee on 19 October 2015 (see **Annexure 2**). An overview of the third and fourth working party meetings (held on 5 November 2015 and 3 February 2016) was reported to the Urban Planning Committee on 29 February 2016 (see **Annexure 3**). An overview of the fifth, sixth and seventh working party meetings (held on 2 March 2016, 21 April 2016 and 4 August 2016) was report to the Urban Planning Committee on 31 October 2016 (see **Annexure 4**).

Staff have been in the process of revising and updating the contents of *Chapter B3 General Development controls* as a consequence of the issues raised by the working party, and feedback from Council's development control staff. A number of amendments to the chapter were proposed to provide a new and simplified approach to controlling building bulk in the Woollahra LGA. Following workshop 7, the latest draft of the revised Chapter B3 was circulated to the practitioners for their response. On 10 October 2016 the practitioners provided a submission on behalf of the *Eastern Design and Planning Professionals Alliance (EDPPA)* (see **Annexure 5**) recommending further amendments to the revised Chapter. As stated in the submission.....

The objectives and purpose of the EDPPA is to represent and provide submissions on behalf of design and planning professionals in the eastern suburbs to both local authorities and the state government on matters relating to statutory planning instruments, planning policies, or other planning instruments or policies which may potentially affect the building environment or public domain within the eastern suburbs of Sydney.

In response to this submission, staff made further amendments to the revised Chapter B3. Approximately 60 changes were made to the revised Chapter B3, and the key changes are summarised below:

- *B3.1.3 Objectives:* Amend objectives to encourage and facilitate design excellence.
- *B3.2.4.Rear setbacks:* Delete building depth control (and associated sliding scale) and insert a simplified rear setback control of 25%.
- *B3.3 Floorplates:*
 - Delete section and replace with a footprint control section which is expressed as a percentage of the site area.
 - Establish a footprint control, and a variation for the Point Piper precinct.
- *B3.4 Excavation:* Amend controls to clarify that the volume of excavation also includes garaging structures (both attached and detached).
- *B3.7.1 Landscaped and private open space:* Amend the permissible percentage of deep soil landscaped area consistent with the new footprint control.

The revised chapter was reported to the Urban Planning Committee on 31 October 2016 and on 14 November 2016 Council resolved:

- A. *That the overview of the Woollahra DCP 2015 Working Party meetings held on 2 March 2016, 21 April 2016 and 4 August 2016 is received and noted.*
- B. *That Council resolve to prepare and exhibit a draft development control plan to amend Chapter B3 General Development controls of the Woollahra Development Control Plan 2015.*
- C. *That the draft chapter as contained in Annexure 8 of the report to the Urban Planning Committee of 31 October 2016 be used for the purpose of preparing the draft DCP.*
- D. *That staff report on the submissions received during the public exhibition to a future meeting of the Urban Planning Committee.*

Through the working party process the practitioners, councillors and staff have been successful in progressing, improving and reaching consensus on certain elements of the building envelope controls including the new objective to encourage design excellence and articulation controls. The working party also identified issues where the controls could be simplified, or the consistency of the document improved.

However, there remain elements of the control set that have continued to divide and challenge the group. In particular, consensus has not been obtained for those elements of the control set that seek to control building bulk and excavation. Despite the working party's continued research and meetings, no reasonable consensus was found which could address the issues and concerns raised.

2. Public exhibition

The Draft DCP was exhibited for 87 days from Wednesday 23 November 2016 until Friday 17 February 2017. The minimum public exhibition period set out in the *Environmental Planning and Assessment Regulation 2000* (the Regulation) is 28 days. The exhibition took place at Woollahra Council Chambers in Double Bay, in the Customer Service area during business hours.

A copy of the Draft DCP was also placed on Council's website for the duration of the exhibition period. During the exhibition period the information page on Council's website was visited by 289 external customers.

Details of the exhibition were notified in eleven Wentworth Courier editions of 23, 30 November, 7, 14, 21 December 2016, 11, 18, 25, January and 1, 8, 15 February 2017. The exhibition was extended beyond the minimum 28 days required by the Regulation to allow more time to make submissions, as part of the exhibition period was over the school and Christmas holidays.

Notification of the Draft DCP exhibition was sent to:

- City of Sydney
- Randwick Council
- Waverley Council
- Double Bay Chamber of Commerce
- Double Bay Residents' Association Inc
- Darling Point Society
- Queen Street & West Woollahra Association
- Rose Bay Resident's Association Inc
- The Paddington Society
- Vaucluse Progress Association
- Watsons Bay Association
- Eastern Design and Planning Professional Alliance
- Members of the working party

3. Submissions

Four submissions were received on the Draft DCP from the following:

- Waverley Council,
- P. Binetter: member of the public,
- Mark Silcocks, President and Malcolm Young, Vice-President - Double Bay Residents' Association Inc
- Chris Howe - EDPPA

A copy of all submissions is provided in **Annexure 6**. In summary:

- Waverley Council staff generally support the proposed simplification of the planning controls, with some minor administrative changes.
- P. Binetter generally supports the proposed simplified approach to the control of building bulk. However, the submission identifies concern with the proposed footprint table and the variation in development yields for Point Piper.

- The EDPPA identifies its opposition to a number of the proposed amendments and do not support adoption of the Draft DCP in its present form. The EDPPA identifies that those matters raised in its submission dated 10 October 2016 remain largely unresolved.
- The submission from the Double Bay Residents' Association recommends a number of amendments including the reinstatement of objectives, increased side setbacks on small sites and retention of the existing floorplate control pending the introduction a *floor space ratio* (FSR) control.

4. Post exhibition changes to the Draft DCP

After the exhibition period we have maintained a dialogue with the EDPPA to clarify their position on the matters raised in their submission. We have also received further feedback from Council's development control staff on the existing and proposed controls. In light of the post exhibition issues raised, thirty five amendments are proposed to the exhibited Draft DCP.

The post exhibition changes we are recommending are consistent with the issues raised in a submission, or are minor matters which address errors or simplify or clarify the operation of the controls. These matters do not require re-exhibition.

A summary of the issues raised in the submissions and a staff response is provided in section 4.4. What follows is a summary of the key issues raised and our recommended approach.

4.1 Retain floorplate control and replace with a floor space ratio control

A key concern with the existing control set is the complexity associated with calculating the permissible floor area and development potential for the site. Currently, the development yield is calculated via a two-step methodology. First, the buildable area is established by applying the front, rear and side setbacks. The maximum amount of development permitted on the site is then determined by multiplying the buildable area by a factor of 1.65 (165%). This is the maximum permitted total floorplate, which is measured across each level.

Alternatives to the floorplate controls were discussed at multiple working party meetings. These discussions were synthesised and a footprint methodology was recommended as a potential new approach to controlling building bulk. The footprint is expressed as a percentage of the site area and varies based on site size and precinct characteristics.

The practitioners supported the main elements of the footprint control, however, they did not support its definition, i.e. the elements of the building that are counted as contributing to building bulk.

Notwithstanding the concerns expressed by the practitioners, staff recommended to the UPC meeting of 31 October 2016 that the footprint control should be included in the Draft DCP to be placed on public exhibition for comment. As a consequence of further concerns expressed by the practitioners at the UPC meeting, Councillors asked staff to investigate the merit of using a site coverage approach instead of a footprint control. Staff prepared a memorandum which was reported to the Council meeting of 14 November 2016 (see **Annexure 7**).

This memorandum summarised the two approaches, and identified the preferred approach from staff was to retain the footprint concept as contained in the Draft DCP. The proposed footprint approach was considered a balanced approach to controlling building bulk whilst allowing design flexibility. On 14 November 2016 Council resolved to place the Draft DCP on exhibition which

recommended deleting the floorplate control and inserting a footprint control to control building bulk.

Three of the four submissions raised a number of objections to the proposed footprint control. The objections are identified in Table 1 below and can be summarised as follows:

- Proposed footprint control will create bulkier and less articulated buildings;
- May create larger and taller buildings;
- Lack of evidence, research and testing;
- Instead of a footprint control, introduce an FSR control.

In their submission the EDPPA stated that

....it is the opinion of practitioners that the proposed amendments to the building footprint control to determine permissible floor space will result in a worse outcome than the present DCP floorplate controls.....

It is apparent that despite ongoing investigations into the proposed footprint control, there is no consensus that will satisfy both practitioners and the staff. Therefore, Council officers do not recommend adopting the exhibited footprint controls. The existing floorplate controls can be retained as an interim approach until an FSR control can be introduced.

As reported to the Urban Planning Committee on 31 October 2016 (see **Annexure 3**) the majority of Sydney Councils use FSR to control building bulk for all types of residential accommodation. In particular, both Randwick and Waverley Council use FSR in the R2 Low Density Residential zones. Both Councils use an FSR of 0.5:1 in their residential zones.

Consistent with this approach, there was overall support during the working party meetings to further investigate the use of an FSR control in the Woollahra LEP 2014. However, the footprint control was recommended as a short term measure whilst an amendment to Woollahra LEP 2014 to insert an FSR control was prepared and brought into effect.

In light of the issues raised in the submissions, staff recommend retaining the existing floorplate control and expediting investigations into an FSR control to apply to low density residential development for the following reasons:

- Staff and practitioners are unable to reach a consensus on the proposed footprint control.
- Approach is consistent with the recommendations from the Double Bay Residents' Association Inc.
- The introduction of an FSR control for low density residential areas is consistent with the approach in both Randwick and Waverley Council.
- The introduction of an FSR would be supported by the *Department of Planning and Environment* as it is consistent with the standardisation of local controls.
- The investigations into an FSR control would be considered on a precinct by precinct basis, recognising the different development intensity's between precincts.

It is recommended that the meetings of the working party are continued so that practitioners and staff can continue discussions on the proposed FSR controls, using experience and case studies to craft FSR controls that can be applied on a precinct by precinct basis. It is also recommended that the review of the proposed FSR controls is done in conjunction with a review of a landscaped area control. Consistent with the vision in Council's Community Strategic Plan, *Woollahra 2025 – Our community, our place, our plan* a landscaped area control would seek to place greater emphasis on the retention and protection of the leafy green streetscape that the community in the Woollahra LGA values.

4.2 Excavation

Throughout the working party meetings and in their submissions the practitioners have consistently argued against a volumetric excavation control. In summary, the practitioners submit the proposed excavation controls:

- Are unreasonable restrictive.
- Lack scientific evidence of environmental effects.
- Result in loss of long term private and public amenity over short term impacts during the construction.
- Are significantly less than volumes permitted in neighbouring Councils and most other LGAs in Greater Sydney.
- Up till now, Council has been unsuccessful in upholding appeals in the Land and Environment Court which deal with excessive excavation. The proposed objectives and controls should be robust to withstand challenges.

However, Council staff do not support deleting the numerical volumetric excavation controls for the following reasons:

- Ecologically sustainable buildings can be constructed without excessive excavation.
- Council's development assessment staff have advised that in their experience, the risks from excavation to adjoining properties are influenced by the type of sub-surface material, the topography, the proximity of works to the adjoining properties and the depth and volume of material excavated.
- There is no evidence to suggest that allowing additional excavation for on-site car parking would decrease the demand for street parking.
- Since the introduction of the Woollahra DCP 2015, the majority of development applications have complied with the volumetric excavation controls. The research also reveals there are non-compliances to varying degrees. However, in those circumstances the amount of variation was considered acceptable in the circumstances of the case.
- The approval of variations does not imply that the controls are not a practical and effective assessment tool. Variations to the volumetric control can be approved as the DCP provides flexibility based on a merit assessment for each circumstance and compliance with the relevant objectives.
- Since the volumetric excavation controls were introduced through an amendment to Woollahra Residential DCP 2003 on 12 September 2012 (and their subsequent translation into the WDCP 2015) there has only been one successful appeal which sought a variation to the excavation controls. This case was a section 96 application. In the circumstances of this case the issue of excavation was more appropriately dealt with via consent conditions.
- Without volumetric excavation controls, subject to satisfactory engineering, any amount of excavation could be permissible on a site.
- Based on our research the excavation controls for some of the adjoining Councils are less flexible and more restrictive as they are depth based, rather than volumetric.

However, in response to the issues raised by the EDPPA, and in response to further dialogue with the practitioners, staff propose to retain the current excavation controls without the exhibited amendments. It is recommended that the excavation controls are included on the agenda for the meetings of the working party.

4.3 Retain site depth sliding scale

The exhibited Draft DCP included a simplified rear setback control which was 25% of the site depth.

The existing rear setback control is based on a site depth sliding scale which works in conjunction with the floorplate. The site depth control ensures that there is a direct correlation between the size of the buildable area and the site yield. Further, where the front setback varies, the site depth control ensures consistency in site yield.

Having discussed this with Council's development control team, staff do not recommend adopting the exhibited rear setback control. The existing building depth control which works in combination with existing floorplate controls should be retained.

4.4 Response to issues raised in submissions

A summary of the issues raised in the submissions (not addressed above) together with a staff response and recommended changes are addressed in the following Table.

Table 1:
B3.2.1 Design Excellence Objectives
<i>Raised by EDPPA</i>
Minor amendments to objectives
Design excellence objectives should not address minimising excavation. Consistent with the rest of the document the objectives should refer to the public domain.
<i>Staff Response:</i>
Support amended objective as follows:
4. <i>Development responds to the topography and minimises excavation.</i>
5. <i>Development provides high levels of amenity for both <u>the private and public domain land.</u></i>
<i>Raised by Double Bay Residents' Association</i>
Reinstate objectives
Two objectives which protect neighbouring properties should be reinstated:
<ul style="list-style-type: none">• <i>O5: To ensure that development establishes a good relationship to the streetscape context</i>• <i>O7: To minimise the negative impacts of development on the amenity of adjoining and neighbouring properties.</i>
<i>Staff Response:</i>
Support inserting new objective to address streetscape context.
3. <i><u>Development contributes positively to the streetscape.</u></i>
Objective O7 has been integrated with the fifth design excellence objective, which (as amended) states:
5. <i>Development provides high levels of amenity for both <u>the private and public domain land.</u></i>

B3.2 Building Envelope
<i>Raised by EDPPA</i> Proposed amendments to front, side and rear setbacks are supported. Staff Response: Support noted. However, as identified in section 4.3 above, staff recommend retaining the building depth control.
B3.2.1 Eaves
<i>Raised by Waverley Council staff</i> Consistency in approach to eaves Eaves can protrude beyond the building envelope, but contributes towards the building footprint. Unify approach to avoid confusion. Staff Response: Staff support consistency in approach to eaves, and have amended the Draft DCP to identify that eaves can protrude beyond the envelope and do not contribute towards the building floorplate.
<i>Raised by Double Bay Residents' Association</i> Objection to eaves encroaching into side setback The intrusion of eaves into side setbacks increases the neighbours sense of enclosure/oppressiveness and reduces the amount of light. This is particularly evident on smaller lots which have a side setback of 0.9m. Staff Response: In most circumstances eaves are modest building elements which articulate the built form and provide shade to the outside of the building. Staff recommend unifying the controls to allow eaves to protrude beyond the building envelope and not contribute to the floorplate. Issues associated with overshadowing and the amenity of the neighbouring properties will be assessed against relevant objectives and merit based for each circumstance.
B3.2.3 Side setbacks
<i>Raised by Waverley Council staff</i> Query why side setbacks are based on frontage width and not height Side setbacks based on frontage width (rather than height) are confusing and appear unrelated. Staff Response: Side setbacks should respond to the context and the precinct desired future character. The site width forms part of the site context.
Issues regarding building articulation and curtilage should be separated. Staff Response: Articulation of the built form is an integral part of the front and side setback controls.
<i>Raised by Double Bay Residents' Association</i> Reinstate objectives Reinstate the following objectives <ul style="list-style-type: none">• O1: To protect the acoustic and visual privacy of residents of adjoining properties.• O8: To ensure the exterior of the building is appropriately articulated.• O9: To limit the sense of enclosure to adjoining properties.• O10: To improve amenity and facilitate daylight and solar access to the site and adjoining properties.

Staff Response:

Support the reinstatement of objective O1 (at location O3).

Objectives O8, O9 and O10 were deleted as these duplicate the following objectives.

- O2: To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.
- O3: To ensure the side elevation of buildings are well articulated.
- O4: To facilitate solar access to habitable windows of adjoining properties.

Do not support small side setbacks on smaller sites

- Side setbacks should not be sacrificed on narrow sites. Adjoining residents have the same need for light, freedom from oppressiveness and overshadowing/ privacy etc.
- Side setbacks should be no less than 1.5m - consistent with other similar municipalities;
 - Mosman Residential DCP 2012 - 2 storey development has minimum setback of 1.5m
 - Lane Cove Council DCP 2010 provides minimum side setback of 1.5m for 2 storey dwelling.
 - Hunters Hill DCP 2013 provides a minimum side boundary setback of 1.5m where there is a 7.2m wall height.

Staff Response:

Side setbacks should relate to the size of the site. On narrow sites, a 1.5m side setback is unrealistic and would unreasonably restrict the internal amenity and development potential of the site. A side setback of 900mm enables building separation and is consistent with the minimum side setback identified in Part 3.7.1 of the Building Code of Australia.

Issues associated with overshadowing and the amenity of the neighbouring properties will be assessed against relevant objectives and merit based for each circumstance.

B3.3 Footprint

Raised by P Binetter

Support for proposed footprint control

Overall support for proposed control, which introduces a logical graduation of allowable footprint based on site area.

Figure 12: Footprint table.

Do not support increased development potential for Point Piper precinct

Precinct characteristics are shared with Rose Bay, Vaucluse East and Vaucluse West.

Lack of explanation in the Point Piper precinct objectives to justify increased development potential.

Increased footprint percentage should be based on site characteristics, not precinct.

Additional footprint allowance should be flexibly applied, assessed on merit and site characteristics (not precinct based).

Suggested merit based table with footprint variations supplied. This avoids perception that there is preferential treatment for Point Piper.

Approval of variations to the numerical controls remains with Council.

Raised by EDPPA

Do not support footprint definition

Proposed footprint definition results in the creation of bulkier and less articulated building.

Applicants will maximise floor space and delete elements such as eaves, balconies, porches, awnings and other building elements.

<p>Figure 12: Footprint table.</p> <p>Do not support footprint table containing a single variation for Point Piper precinct</p> <ul style="list-style-type: none">• Table was not provided to the practitioner group prior to public exhibition.• Contrary to the agreement at the working party meeting, this table identifies a single variation for the Point Piper precinct only. Variations should be suburb based.
<p>Objection to the reduction in footprint percentage for sites of 500m² or greater.</p> <ul style="list-style-type: none">• Do not support the footprint percentage for sites of 500m² or greater, as this reduces the permissible building footprint from the 2002 DCP.• This is contrary to discussions at the DCP Working Party, where it was identified that the proposed amendments were not to reduce building size from previous controls.
<p>Objection to increase in permissible floorspace</p> <ul style="list-style-type: none">• In many instances the proposed footprint percentage will result in a greater permissible floorspace than that of the 2015 DCP (and potentially historically approved development). This is neither intended nor a desirable outcome.
<p>Footprint controls will increase height of buildings</p> <ul style="list-style-type: none">• Research suggests that in some locations the proposed controls will require new development to decrease building footprints and increase the height of new buildings to achieve the same floorspace.• Results in taller and more bulky buildings.
<p>Lack of research and sufficient testing</p> <ul style="list-style-type: none">• Unaware of what research was completed which informed the footprint table. This research should have been provided to practitioners.• Proposed amendments have not been sufficiently tested to establish the likely built form outcomes, which may result in greater building bulk than the 2015 and 2002 DCPs.• Until more testing is completed, the proposed amendments should not be adopted.
<p><i>Raised by Double Bay Residents' Association</i></p> <p><i>Object to deleting bulk control in favour of footprint control.</i></p> <ul style="list-style-type: none">• Consultant town planners have agreed that the current “floorplate” provisions are working well.• Consistent with other Councils, floorplate control should be replaced with a FSR control. Pending the introduction of an FSR control, retain the existing floorplate control.• Applications to exceed the FSR could be dealt with under CI 4.6 of the LEP. <p><i>Staff Response:</i></p> <p>In light of the issues raised in the submissions, staff recommend retaining the existing floorplate control (see section 4.1 above).</p>
<p>B3.4 Excavation</p>
<p><i>Raised by Double Bay Residents' Association</i></p> <p>Retain volumetric excavation controls</p> <ul style="list-style-type: none">• Agree with staff that maximum vehicle numbers and volumetric controls should be retained.• Unlimited excavation for parking causes danger to adjoining properties and unreasonable impact on Council’s roads/infrastructure and traffic caused by trucks. <p><i>Staff Response:</i></p> <p>Support for the volumetric excavation controls is noted.</p>

Reinstate objectives

- O3: To limit damage to Council infrastructure such as roads, from truck movements.
- O4: To restrict energy expenditure associated with excavation and traffic emissions from truck movements.

Staff Response:

Following discussions at the working party meetings these objectives were deleted, recognising these objectives are not supported by evidence.

Do not support restricting on-site parking

- Provided significant trees, landscaping and deep soil landscaping are retained, there should be no restrictions on on-site car parking spaces.
- On-site parking restrictions (and associated excavation volumes) are significantly less than those permitted in neighbouring Councils and most other LGAs in the Greater Sydney area.
- Reduction in the permitted excavation volumes is not supported by scientific rationale.
- Restriction of on-site car parking and increased parking in surrounding streets negatively impacts the streetscape and the public amenity.

Staff Response:

Car parking rates are identified in *Chapter E1 Parking and Access* of the Woollahra DCP 2015. The Council resolved at the meeting of 12 September 2016 to prepare and exhibit a development control plan to amend *Chapter E1 Parking and Access*. Draft Woollahra Development Control Plan (Amendment No 1) was on exhibition from 28 September 2016 to 11 November 2016, consistent with the requirements of the Act and the Regulation. The EDPPA made a submission identifying their opposition to maximum residential parking generation rates.

The submissions received during the public exhibition were considered and reported to the Urban Planning Committee on 28 November 2016, and on 12 December 2016 Council resolved:

THAT Council approve Draft Woollahra Development Control Plan 2015 (Amendment No 1) - Chapter E1 Parking and Access as exhibited, subject to minor post-exhibition changes as attached at Annexure 1 to the report to the Urban Planning Committee of 28 November 2016.

The maximum parking generation rates for residential development were retained in the approved *Chapter E1 Parking and Access*.

Minor administrative changes

Raised by Waverley Council staff

B3.1.1 Development to which this chapter applies (page 6)

Section has three new paragraphs – swap the last two paragraphs.

Staff Response:

The sequence is consistent with the order of information in State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development.

Amend figure 9 (section view of the building envelope with the setbacks and inclined plane)

Diagram to replace figure 9 is over-simplified and doesn't clearly explain how the inclined plane is calculated.

Staff Response:

Support amending diagram to clarify how the inclined plane is calculated.

Amend figure 11 (section view of the building showing the footprint)

- Figure 11 should be simplified/clarified.

Staff Response:

Figure to be deleted as it illustrates footprint control.

4.5 Response to issues raised by Council’s Development Control Staff

In response to further issues raised by Council’s Development Control Staff we recommend the following minor post exhibition changes to simplify the controls, clarify anomalies and ensure consistency.

Section	Amendment
Throughout document	<ul style="list-style-type: none"> • Amend controls to identify that eaves do not count towards the floorplate, and delete 450mm allowance for eaves. • Delete the term “significant” trees and replace with plantings of “landscape value”. • Delete the term “garage” and replace with “car parking structures”.
B3.2.2 Front setback	<ul style="list-style-type: none"> • Insert note to clarify how front setbacks are calculated.
B3.2.3 Side setbacks	<ul style="list-style-type: none"> • Identify that the side setback controls are a minimum. • Amend note to clarify that the size of the side setbacks is measured at the front setbacks.
B3.2.5 Wall height and inclined plane	<ul style="list-style-type: none"> • Insert objectives to address: <ul style="list-style-type: none"> ○ acoustic and visual privacy ○ protection of views between buildings.
B3.3 Floorplate	<ul style="list-style-type: none"> • Amend objective O1 to refer to “bulk and scale”.
B3.4 Excavation	<ul style="list-style-type: none"> • Reorder objectives O4 and O5 to identify they apply to all excavation controls. • Amend control C9 to identify a geotechnical and hydrogeological report “may” be required. • Amend note to clarify that dilapidation reports may be required as a condition of a development consent.
B3.5.3 Public and private views	<ul style="list-style-type: none"> • Amend objective O4 to delete reference to “inappropriate” landscaping.
B3.5.4 Acoustic and visual privacy	<ul style="list-style-type: none"> • Amend objective O3 and control C7 to clarify they apply to all public open spaces and roof terraces. • Amend control C10 to identify it only applies to roof terraces. • Amend objective O4 and control C12 to clarify they apply to all roof terraces.
B3.6 On-site parking	<ul style="list-style-type: none"> • Amend control C3 to clarify how the area and height controls apply. • Delete control C11 which duplicates control C9. • Insert objective relating to the retention of trees and vegetation with landscape value.
B3.7.1 Landscaped area and private open space	<ul style="list-style-type: none"> • Amend control C1 consistent with the floorplate methodology. • Amend control C9 to clarify that primary open space created by either excavation or fill should be no more than 1.2m from existing ground level.

Section	Amendment
B3.7.3 Site facilities	<ul style="list-style-type: none"> Amend objective O6 and controls C7, 8 and 9 by deleting the term “air conditioning units” and replacing it with “mechanical plant equipment. Insert new objective and control addressing site services.
B3.7.4 Ancillary development – swimming pools	<ul style="list-style-type: none"> To ensure consistency in measuring the location of a swimming pool, amend control C3 (and relevant figure). Insert objective relating to the retention of trees and vegetation with landscape value.
B3.7.4 Ancillary development – outbuildings	<ul style="list-style-type: none"> Amend control C2 to identify that the position of an outbuilding must be no closer than 1.5m from the rear and side boundaries. Insert objective relating to the retention of trees and vegetation with landscape value.
B3.9 Additional controls for development on a battle-axe lot	<ul style="list-style-type: none"> Amend control C3 and C4 (and relevant figures) to clarify how the controls apply to a dwelling house or dual occupancy in the R3 Medium Density Zone.

5. Summary of proposed amendments post exhibition

Having considered the issues raised in the submissions and additional issues raised by Council’s Development Control Staff, the key changes proposed to the exhibited Draft DCP can be summarised as follows:

- i. Insert design excellence objectives
- ii. Amend controls to identify that eaves do not count towards the floorplate, and delete 450mm allowance for eaves
- iii. Simplify front and side building setback controls and amend objectives.
- iv. Clarify variations to the inclined plane and wall height controls
- v. Clarify basement wall side setback controls
- vi. Amend controls relating to the visual privacy of private open space
- vii. Insert diagram illustrating the application of the roof terrace visual privacy controls
- viii. Insert new objectives to refer to the retention of vegetation with “landscape value”, amend existing objectives for consistency
- ix. Where relevant replace the term “garage” with “car parking structure”
- x. Delete duplicated control which refers to the “materials” of car parking structures
- xi. Prioritise excavation objectives
- xii. Amend control relating to the location of private open space to clarify that it should be no higher than 1.2m from existing ground level.
- xiii. Where relevant replace the term “air conditioning units” with “mechanical plant equipment”
- xiv. Amend setback control for swimming pools to ensure consistency in application
- xv. Identify that outbuildings should be sited a minimum of 1.5m from side and rear boundaries
- xvi. Amend controls applying to battle-axe lots to clarify how the controls apply to a dwelling house or dual occupancy development in the R3 Medium Density Zone
- xvii. Introduce a savings and transitional arrangements clause to ensure that existing applications that are currently being assessed are not affected by the introduction of Amendment 2.

6. Conclusion

The Draft DCP was placed on public exhibition in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*. Four submissions were received and assessed. Having considered the matters raised in the submissions, and issues raised by Council's development control team, thirty five amendments are recommended to the exhibited Draft DCP. The majority of these amendments will clarify the controls and objectives.

Staff recommend proceeding with amendments to the Draft DCP as attached in **Annexure 1**. The submissions contained varying opinions about the exhibited footprint controls. On balance, after reviewing the submissions, we do not recommend proceeding with the exhibited footprint controls. As a short term measure we recommend retaining the existing floorplate control and expediting investigations into the future introduction of a floor space ratio control to apply to low density residential development. These investigations can be assisted by further liaison with the working party.

Annexures

1. Draft Woollahra Development Control Plan 2015 (Amendment No 2) - post exhibition [↓](#)
2. Report to the UPC meeting on 19 October 2015 [↓](#)
3. Report to the UPC meeting on 29 February 2016 [↓](#)
4. Report to the UPC meeting on 31 October 2016 [↓](#)
5. Submission from the EDPPA dated 10 October 2016 [↓](#)
6. WDCP 2015 (Amendment 2) - Chapter B3 General Development Controls - Submissions Redacted [↓](#)
7. Memorandum prepared by staff to the Council meeting of 14 November 2016 [↓](#)

Annexure 1 - Part 1

Draft Woollahra Development Control Plan 2015 (Amendment No 2)

~~Deletions — identified in red and scored through~~

Insertions - identified in blue and underlined

Amendments - identified in blue, yellow and underlined from the
current floorplate controls

27 March 2017

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Part 1 Preliminary

1.1 Background

The Draft Woollahra Development Control Plan (Amendment No 2) (the plan) has been prepared in response to Council's resolution of 14 November 2016:

- A. That the overview of the Woollahra DCP 2015 Working Party meetings held on 2 March 2016, 21 April 2016 and 4 August 2016 is received and noted.
- B. That Council resolve to prepare and exhibit a draft development control plan to amend Chapter B3 General Development controls of the Woollahra Development Control Plan 2015.
- C. That the draft chapter as contained in Annexure 8 of the report to the Urban Planning Committee of 31 October 2016 be used for the purpose of preparing the draft DCP.
- D. That staff report on the submissions received during the public exhibition to a future meeting of the Urban Planning Committee.

The plan amends Woollahra Development Control Plan 2015 (Woollahra DCP 2015) to include:

- Amended objectives to encourage and facilitate design excellence
- Simplified front and side ~~and rear~~ building setback controls
- Clarification of possible variations to the inclined plane and wall height controls
- ~~Replacement of the "floorplate" control with a "footprint" control~~
- Amended excavation controls to ~~clarify inclusions to volumetric calculations, and~~ clarify basement wall side setbacks
- Minor amendments to acoustic and visual privacy, on-site parking, landscaping, swimming pool, outbuildings, fence and battle-axe lot controls

1.2 Name of plan

This plan is the Draft Woollahra Development Control Plan 2015 (Amendment No 2).

1.3 Objectives of the plan

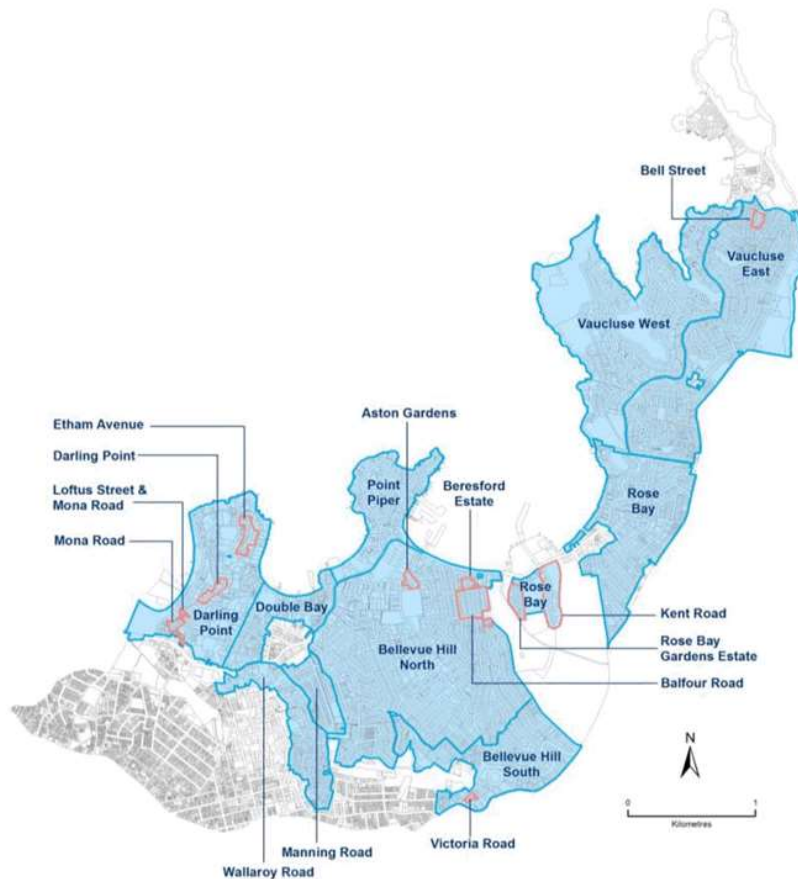
The objectives of the plan are to update existing controls and create a control set which:

- Is easy for applicants to understand
- Is expressed in simple language
- ~~Allows a site's development yield to be easily calculated~~
- Provides an effective assessment framework for staff
- Allows development compliance to be easily determined

1.4 Land to which this plan applies

This plan applies to land identified on Map 1 of section B3.1.1 of Woollahra DCP 2015 (as shown below). The land comprises of the 10 Residential Precincts and 11 Neighbourhood Heritage Conservation Areas identify in the Woollahra DCP 2015.

MAP 1 The land where this chapter applies



1.5 Relationship of this plan to the Act, Regulation and other plans or environmental planning instruments

This plan has been prepared under section 74C of the *Environmental Planning and Assessment Act 1979* and Part 3 of the *Environmental Planning and Assessment Regulation 2000*.

Woollahra Local Environmental Plan 2014 applies to the land to which this plan applies.

1.6 Approval and commencement of this plan

This plan was approved by Woollahra Council onand came into effect on

Part 2 Amendments to Woollahra Development Control Plan 2015

2.1 Chapter B3 General Development Controls

Delete the chapter and insert instead the chapter attached as **Part 2**.

2.2 Clause A1.4

Insert as appropriate in the table:

Amendment	Date of commencement	Description of amendment
No 2	xxx	<p>Amend Chapter B3 General Development Controls by amending and inserting various controls for general development related to:</p> <ul style="list-style-type: none"> • Amend <u>Insert</u> design excellence objectives • Simplified front <u>and</u> side and rear building setback controls • Clarify variations to the inclined plane and wall height controls • Replace “floorplate” control with a “footprint” control • Amend excavation volumetric calculations • Clarify basement wall side setback controls • Make minor amendments to acoustic <u>and visual</u> privacy, on-site parking, landscaping, <u>swimming pool</u>, <u>outbuildings</u>, fence and battle-axe lot controls

2.3 Clause A1.1.9 Savings and transitional provisions relating to development applications

Insert the following after the existing paragraphs:

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.

Annexure 1 - Part 2

DRAFT - 27 MARCH 2017

Chapter B3 General Development Controls

Part B ► General Residential

Chapter B3 ▶ General Development Controls

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▶ Part B | General Residential

B3 | General Development Controls

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Woollahra Development Control Plan 2015
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▶ B3 pg.4

B3.1 Introduction

This is Chapter B3 of the Woollahra Development Control Plan 2015 (DCP), Part B General Residential. The controls in this chapter must be read in conjunction with the controls in Chapter B1 Residential Precincts and Chapter D2 Neighbourhood Heritage Conservation Areas (HCAs).

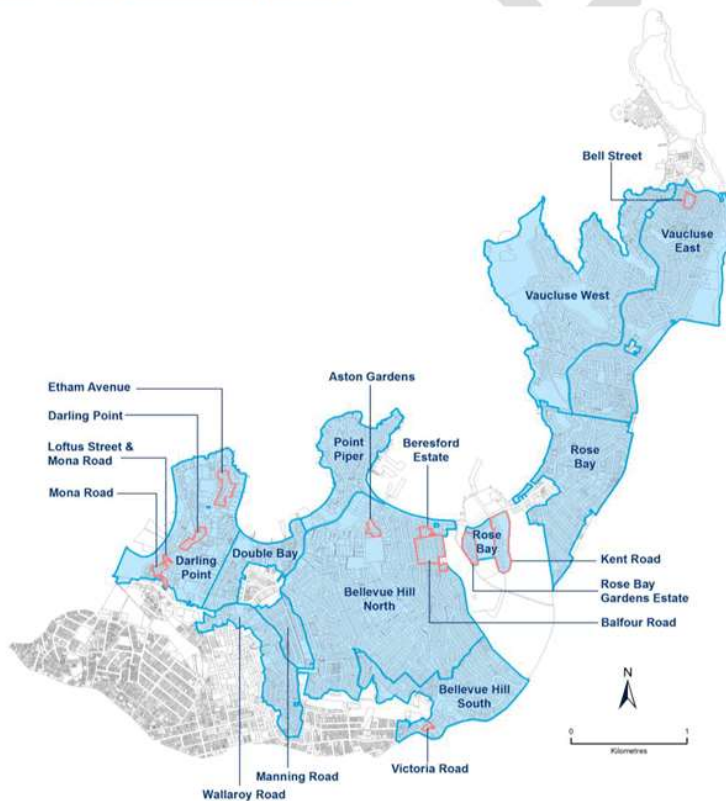
The Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014) includes building height controls, floor space ratios in the R3 Medium Density Residential Zone and the minimum lot size required for subdividing or developing land.

The controls in this chapter guide the scale and bulk of development so that is compatible with site conditions and the desired future character of the location where the development is proposed.

B3.1.1 Land where this chapter applies

This chapter applies to land identified on Map 1 below.

MAP 1 The land where this chapter applies



The area comprises:

10 Residential Precincts

- ▶ Darling Point
- ▶ Double Bay
- ▶ Wallaroy
- ▶ Manning Road
- ▶ Point Piper
- ▶ Bellevue Hill South
- ▶ Bellevue Hill North
- ▶ Rose Bay
- ▶ Vaucluse West
- ▶ Vaucluse East

11 Neighbourhood HCAs

- ▶ Etham Avenue, Darling Point
- ▶ Darling Point Road, Darling Point
- ▶ Mona Road, Darling Point
- ▶ Loftus Road and Mona Road, Darling Point
- ▶ Aston Gardens, Bellevue Hill
- ▶ Victoria Road, Bellevue Hill
- ▶ Balfour Road, Rose Bay
- ▶ Beresford Estate, Rose Bay
- ▶ Rose Bay Gardens Estate, Rose Bay
- ▶ Kent Road, Rose Bay
- ▶ Bell Street, Vaucluse

B3.1.2 Development to which this chapter applies

This chapter applies to development that requires development consent. This includes new development and additions and alterations.

Generally this will be residential development, but may include other permitted uses such as child care centres, community facilities, educational establishments, neighbourhood shops and places of public worship, and other uses permitted in Woollahra LEP 2014.

This area is predominantly zoned R2 Low Density Residential and R3 Medium Density Residential, but also includes land zoned SP2 Infrastructure, RE1 Public Recreation, RE2 Private Recreation, E1 National Parks and Nature Reserves and E2 Environmental Conservation.

Note: Those provisions in Woollahra DCP 2015 that specify requirements, standards or controls that relate to certain matters which are listed in clause 6A of the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65) have no effect in the assessment and determination of a development application for development to which SEPP 65 applies.

Residential apartment development is defined in clause 4 of SEPP 65. It comprises residential flat buildings, shop top housing and mixed use development with a residential accommodation component. The building must be at least three or more storeys (excluding levels below existing ground level or levels that are less than 1.2m above existing ground level that provide car parking). The building must contain at least four or more dwellings.

All other provisions of Woollahra DCP 2015 apply to the assessment and determination of a DA for development to which SEPP 65 applies.

B3.1.3 Design Excellence

Woollahra Council has a strong commitment to design excellence. Design excellence may be achieved by development that meets the following criteria, as well as all other relevant objectives and controls in this chapter.

1. Development contributes positively to the desired future character of the relevant residential precinct described in section B1 of this DCP.
2. Development respects the natural, built and cultural significance of the site and its location.
3. Development conserves and protects established ~~and significant~~ trees ~~and~~, plantings of landscape value and deep soil landscaping and, where possible, enhances plantings and deep soil landscaping.
4. Development responds to the topography ~~and minimises excavation~~.
5. Development contributes positively to the streetscape.
- ~~5-6.~~ Development provides high levels of amenity for both the private and public domain land.
- ~~6-7.~~ Development incorporates the principles of ecologically sustainable development, such as:
 - minimising energy consumption,
 - reducing potable water use,
 - using energy and water efficient appliances,
 - using environmentally friendly products, and
 - enhancing indoor environmental quality.

B3.1.4 Relationship to other parts of the DCP

This chapter is to be read in conjunction with the other parts of the DCP that are relevant to the development proposal, including:

- Part B: Chapter B1 Residential Precincts OR Chapter B2 Neighbourhood HCAs, depending on the location of the proposed development.
- Part E: General Controls for All Development - this part contains chapters on Parking and Access, Stormwater and Flood Risk Management, Tree Management, Contaminated Land, Waste Management, Sustainability, Signage and Adaptable Housing.
- Part F: Land Use Specific Controls - this part contains chapters on Child Care Centres, Educational Establishments, Licensed Premises and Telecommunications.

B3.1.5 How to use this chapter

This chapter establishes controls for the following topics:

- ▶ building envelopes;
- ▶ ~~floorplate footprint~~;
- ▶ excavation;
- ▶ built form and context;
- ▶ on-site parking;
- ▶ external areas;
- ▶ additional controls for development other than a dwelling house;
- ▶ additional controls for development on a battle-axe lot; and
- ▶ additional controls for development in sensitive locations (for example harbour foreshore development and land adjoining public open space).

The controls in this chapter comprise the following elements:

- ▶ **Explanation of the topic:**

This provides background information on why the topic is important, how it is relevant to building design, and how the controls should be applied.

- ▶ **Table of objectives and controls:**

The objectives describe the outcomes that proposed development is required to achieve. Applicants need to demonstrate how their development fulfils the relevant objectives for each topic. The controls represent specific ways in which a development proposal can meet the objectives. The intent of the controls must be interpreted in the context of the topic's objectives.

Development is required to address all the relevant controls. Where there is a disparity between these general controls and the precinct specific controls in Chapters B1 and B2, those specific controls take precedence over the general controls.

B3.2 Building envelope

The building envelope is a three dimensional space within which a building is to be located.

B3.2.1 Where the building envelope controls apply

Development in the R2 Low Density Residential Zone

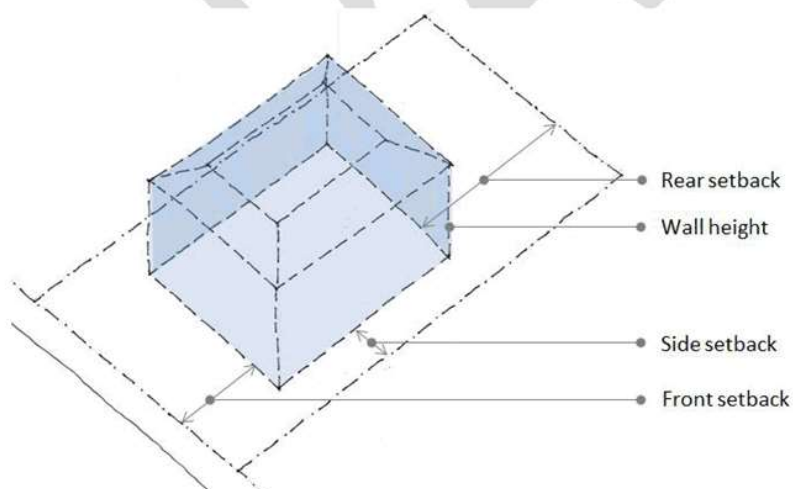
The building envelope (as shown in Figure 1) is established by applying the following controls:

- ▶ front, side and rear setbacks;
- ▶ maximum wall height of 7.2m;
- ▶ inclined plane of 45° taken from the maximum wall height; and
- ▶ maximum building height set by Woollahra LEP 2014.

The building is to be contained within the building envelope, but is to occupy only a percentage of the building envelope (as determined by the **footprint floorplate** controls in Section B3.3 **Footprint Floorplate**). There is an allowance of 450mm for eaves outside the building envelope as long as the protrusion is below the inclined plane (where one applies). **However, the eaves are included in the footprint (refer to footprint 11).**

Note: Additional controls apply to development on a battle-axe lot (refer Section B3.9).

FIGURE 1 Building envelope



Development for dwelling houses, semi-detached dwellings and dual occupancies in the R3 Medium Density Residential zone

In the R3 Medium Density Residential Zone, an FSR control does not apply to dwelling houses, semi-detached dwellings and dual occupancies in Woollahra LEP 2014 (clause 4.4(2A)). The development potential for these uses is determined by the same building envelope that applies to the development in the R2 Low Density Residential Zone (see above).

All other development in the R3 Medium Density Residential Zone

In the R3 Medium Density Residential Zone, an FSR control applies to all development except dwelling houses, semi-detached dwellings and dual occupancies.

Where an FSR control applies, the building envelope is established by applying the following controls:

- ▶ front, side and rear setbacks;
- ▶ maximum building height set by Woollahra LEP 2014.

The wall height, inclined plane and ~~footprint~~ [floorplate](#) controls do not apply.

The development, such as a residential flat building, is to be contained within the building envelope. However, the proposed building may only occupy a portion of the building envelope as determined by the maximum FSR control in the LEP.

B3.2.2 Front setback

Front setbacks establish the position of buildings in relation to the street boundary. They create the spatial proportions of the street and can contribute to the streetscape character by providing consistency.

Buildings and plantings on private land form essential parts of the streetscape. Front setbacks should be used to enhance the setting for the building, providing landscaped areas and access to the building.

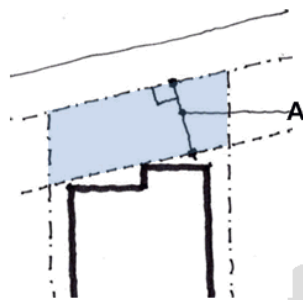


FIGURE 2

Front setback measurement

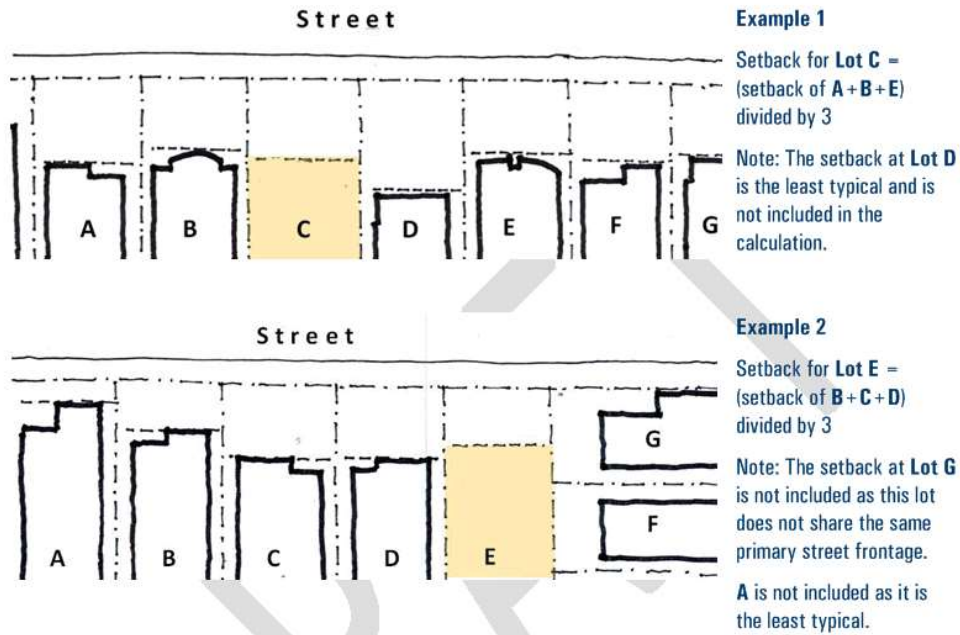
Example

A = Front setback measured at 90° to the front boundary

B3.2 Building envelope ▶ 3.2.2 Front setback	
Objectives	Controls
<p>O1 To reinforce the existing streetscape and character of the location.</p> <p>O2 To provide consistent front setbacks in each street.</p> <p>O3 To provide for landscaped area and deep soil planting forward of the building.</p>	<p>C1 The front setback of the building envelope is determined by averaging the three most typical setbacks of the four closest residential buildings that face the same side of the street (refer to Figure 3).</p> <p>Note: The setback is determined by the distance between the primary street boundary and the outside face of the front building wall, or any protruding balcony deck or the like (excluding car parking structures).</p> <p>Note: The front setback is the horizontal distance between the building envelope and the primary street boundary, measured at 90° from the boundary (refer to Figure 2).</p> <p>Note: On corner lots, the shortest frontage to a street is typically where the front setback applies.</p> <p>Note: These controls do not apply to battle-axe lots (refer to Section B3.9).</p>
<p>O4 To ensure that buildings are well articulated and positively contribute to the streetscape.</p>	<p>C2 The building has a maximum unarticulated width of 6m to the street frontage.</p>

FIGURE 3

Setbacks of the four closest residential buildings are determined by the distance between the primary street boundary and the outside face of the front building wall, or any protruding balcony deck or the like (excluding car parking structures including garages or carports).



B3.2.3 Side setbacks

The side setback control seeks to ensure that the distance of a building from its side boundaries protects the amenity of both the neighbours and the proposed development.

The minimum side setback requirement varies according to the lot width and building type.

B3.2 Building envelope ▶ 3.2.3 Side setbacks	
Objectives	Controls
O1 To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.	C1 The minimum side setback for dwelling houses, semi-detached dwellings and dual occupancies is determined by the table in Figure 5A.
O2 To ensure the side elevation of buildings are well articulated.	C2 The minimum side setback for residential flat buildings, attached dwellings and multi-dwelling housing is determined by the table in Figure 5B.
O3 To protect the acoustic and visual privacy of residents on adjoining properties.	C3 The minimum side setback for any other land use not addressed in controls C1 to C2 above is determined by the table in Figure 5B.
O34 To facilitate solar access to habitable windows of adjoining properties.	<p>Note: The side setback is the horizontal distance between the side property boundary and the building envelope, measured at 90° from the boundary at the front setback, as shown in Figure 4.</p> <p>Note: For controls C2 and C3 setbacks include any basement piling or similar structured forms</p>
O45 To facilitate views between buildings.	
O56 To provide opportunities for screen planting.	
O67 To allow external access between the front and rear of the site.	
	C4 The building has a maximum unarticulated wall length of 12m to the side elevation.
	<p>Note: A reduced side setback may be considered where zero or significantly reduced setbacks are characteristic of the immediate streetscape. These streets may be specifically identified in Chapter B1 Residential Precincts or Chapter B2 Neighbourhood HCAs.</p>

B3.2 Building envelope ▶ 3.2.3 Side setbacks	
Objectives	Controls
<p>O7 To recognise built form characteristics of semi-detached dwellings and attached dwellings.</p>	<p>C5 Notwithstanding C1 to C3 above, the following variations apply:</p> <ul style="list-style-type: none"> a) For a semi-detached dwelling—a zero setback applies at the common boundary between the pair of semi-detached dwellings. b) For attached dwellings—a zero setback applies at the common boundary between each dwelling within the development.

FIGURE 4
Side setback measurement, B depends on A

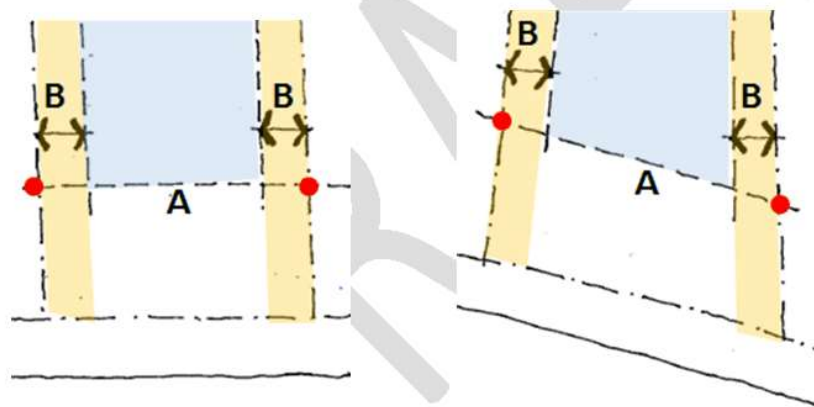


FIGURE 5A

Side setback table for dwelling houses, semi-detached dwellings and dual occupancies

A. Site width measured along front setback line in metres	B. Side setback in metres
< 9.0	0.9
9.0 - < 11.0	1.1
11.0 - < 13.0	1.3
13.0 - < 15.0	1.5
15.0 - < 17.0	1.9
17.0 - < 19.0	2.3
19.0 - < 21.0	2.7
21.0 - < 23.0	3.1
23.0 +	3.4

FIGURE 5B

Side setback table for Residential flat buildings, multi dwelling housing and attached dwellings, and any other land use not addressed in controls C1 to C2 of Section 3.2.3 Side setbacks

A. Site width measured along front setback line in metres	B. Side setback in metres
<18.0	1.5
18.0 - < 21.0	2.0
21.0 - < 28.0	2.5
28.0 - < 35.0	3.0
35.0 +	3.5

B3.2.4 Rear setback

The rear setback control seeks to ensure that the distance of a building from its rear boundary provides amenity to both the neighbouring sites and the proposed development.

In particular, the rear setback provides useable land for private open space and landscaping, which significantly contributes to amenity for the occupants.

The rear setback is the horizontal distance between the building envelope and the rear property boundary, measured parallel to the side boundaries (refer to Figure 6). The rear setback is a consequence of the front setback, site depth and building depth.

B3.2 Building envelope ► 3.2.4 Rear setback	
Objectives	Controls
O1 To provide private open space and landscaped areas at the rear of buildings.	C1 The rear setback is 25% of the site depth, being the average of the side boundaries (refer to Figure 7) and is the horizontal distance between the building envelope and the rear property boundary.
O2 To provide acoustic and visual privacy to adjoining and adjacent buildings.	
O3 To avoid an unreasonable sense of enclosure.	C1 The rear setback is a consequence of the site depth, front setback and building depth as set out in the formula at Figure 6.
O4 To provide separation between buildings to facilitate solar access to private open space.	C2 The building depth is determined by the sliding scale in Figure 7 and applies to:
O5 To protect significant vegetation of landscape value and provide for landscaped area and deep soil planting.	a) development in the R2 Low Density Residential Zone; and
O6 To contribute to a consolidated open space network with adjoining properties to improve natural drainage and support local habitat.	b) a dwelling house, semi-detached dwelling or dual occupancy in the R3 Medium Density Residential zone.
	C3 For development in the R3 Medium Density Residential Zone where an FSR applies, the building depth is 60 % of the site depth.
	C4 Notwithstanding C1 above, the minimum rear setback is 3m.
	C25 If 'end to end' amalgamation occurs, the building envelope will be determined as if they were separate lots (refer to Figure 8).

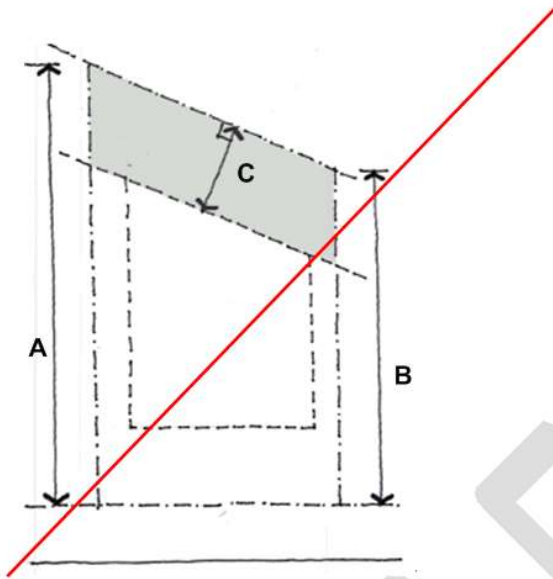


FIGURE 7
Formula for determining rear setback

A = Site depth

B = Rear setback (25% of A)

C = Rear Setback is 25% of the site depth

$$C = ((A+B) / 2) \times 0.25$$

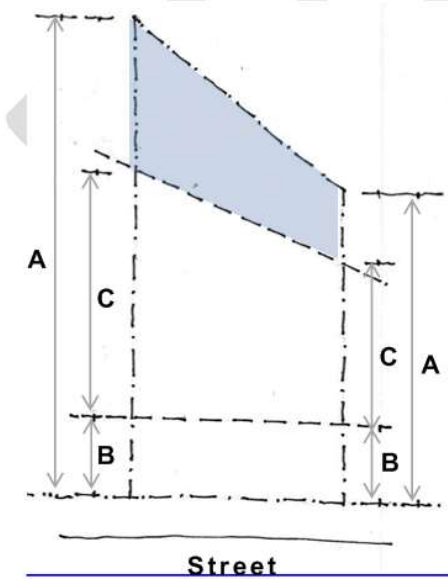


FIGURE 6
Formula for determining the rear setback

$$\text{Rear setback} = A - C - B$$

A = Site depth

B = Front setback

C = Building depth (A x % for A on the building depth sliding scale)

FIGURE 7
Building depth sliding scale

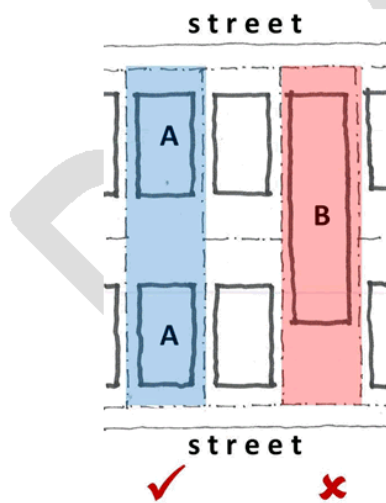
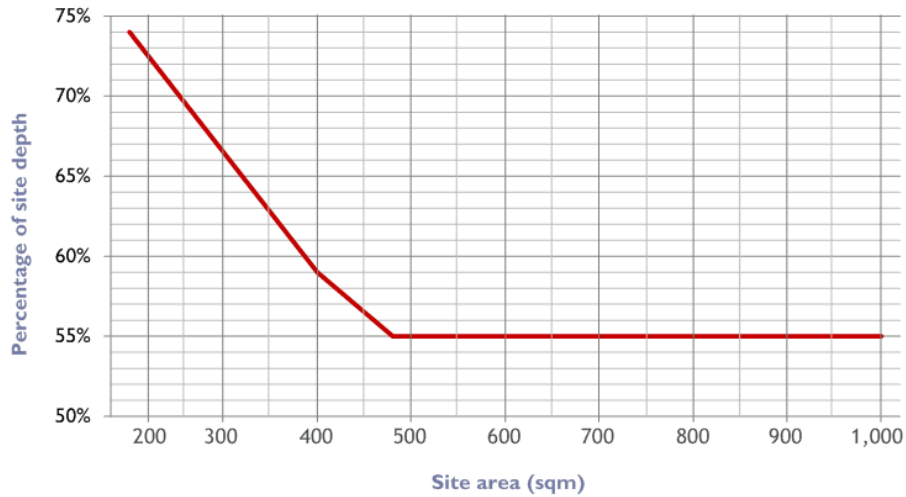


FIGURE 8
Setbacks for end to end amalgamation

When lots are amalgamated end to end, as illustrated in A and B, the rear setback requirement remains as if it were two lots, as illustrated in A. Not as illustrated in B.

B3.2.5 Wall height and inclined plane

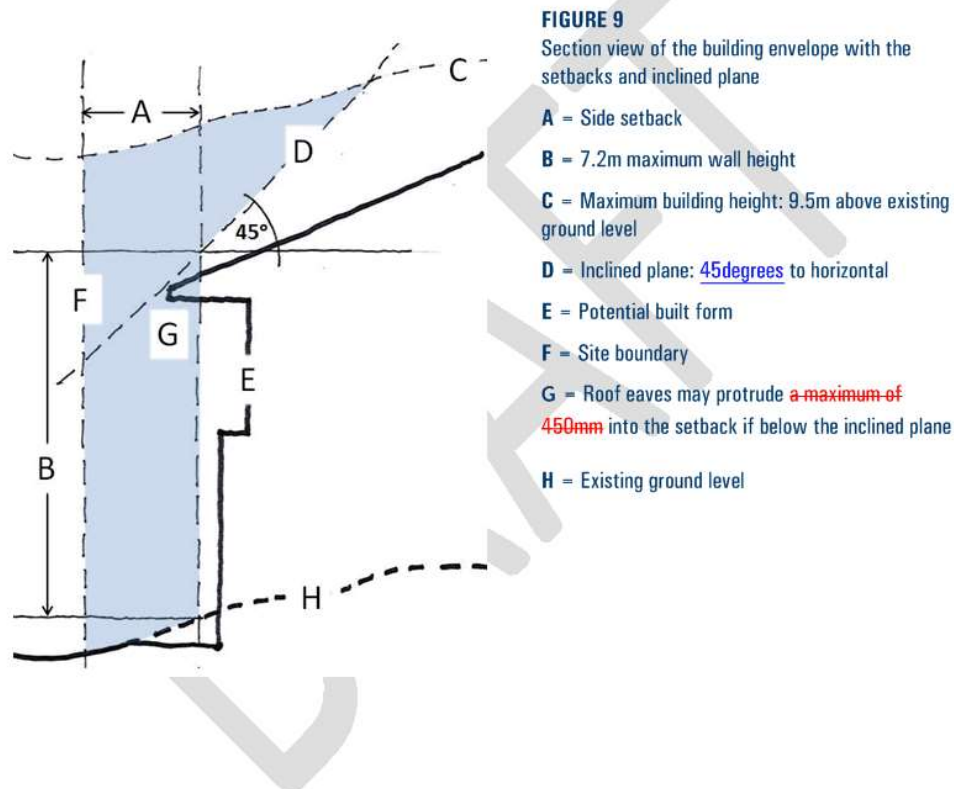
The wall height control only applies to:

- ▶ development on land in the R2 Low Density Residential Zone; and
- ▶ dwelling houses, semi-detached dwellings and dual occupancies in the R3 Medium Density Residential zone.

A wall height of 7.2m (accommodating two storeys) and an inclined plane of 45° applies to the front, side and rear elevations. These controls respond to the typical pitched roof house form, but also potentially accommodate three storey flat roof housing forms with a reduced top storey.

B3.2 Building envelope ▶ 3.2.5 Wall height and inclined plane	
Objectives	Controls
O1 To limit the bulk, scale and visual impact of buildings as viewed from the street and from adjoining properties.	C1 On land zoned R2 Low Density Residential and for a dwelling house, semi-detached dwelling or dual occupancy in the R3 Medium Density Residential zone: <ul style="list-style-type: none"> a) the wall height is 7.2m above existing ground level; and b) an inclined plane is taken from a point 7.2m above existing ground level at each of the setbacks (the inclined plane is at 45 degrees from horizontal); and c) roof eaves may protrude a maximum of 450mm into the setback if below the inclined plane. Refer to Figure 9.
O2 To limit overshadowing of adjoining properties across side boundaries.	
O3 To limit overshadowing to south facing rear yards.	
O4 To provide acoustic and visual privacy to adjoining and adjacent buildings.	
O5 To facilitate views between buildings.	
	C2 A variation to the wall height of 7.2m may be considered where the slope of the site within the building envelope is greater than 15 degrees. <p>The variation will only be considered to walls located nearest to the downslope section of the building envelope, i.e. the section with the lowest existing ground level.</p> <p>A request for a variation must demonstrate that the increased wall height is consistent with the objectives of this section of the DCP, consistent with the objectives for development within the zone in which the development is proposed to be carried</p>

B3.2 Building envelope ▶ 3.2.5 Wall height and inclined plane	
Objectives	Controls
	<p>out, and there are sufficient environmental planning grounds to justify the variation.</p> <p>Note: The statutory building height control in the Woollahra LEP 2014 applies.</p>



B3.3 — Footprint

The footprint control only applies to:

- ▶ development on land in the R2 Low Density Residential Zone; and
- ▶ dwelling houses, semi-detached dwellings and dual occupancies in the R3 Medium Density Residential zone.

Note: The footprint control does not apply to land or development types where an FSR applies, such as residential flat buildings, multi-dwelling housing, or attached dwellings on land zoned R3 Medium Density Residential.

Measuring footprint

Footprint is measured to include all the site area covered by buildings; where the building is 1.2m or more above existing ground level (refer figures 10 and 11),

but excludes:

- ▶ uncovered external areas, such as terraces and decks that are less than 1.2m above the existing ground level;
- ▶ garaging outside the building envelope where permitted;
- ▶ swimming pools less than 1.2m above existing ground level; and
- ▶ outbuildings.

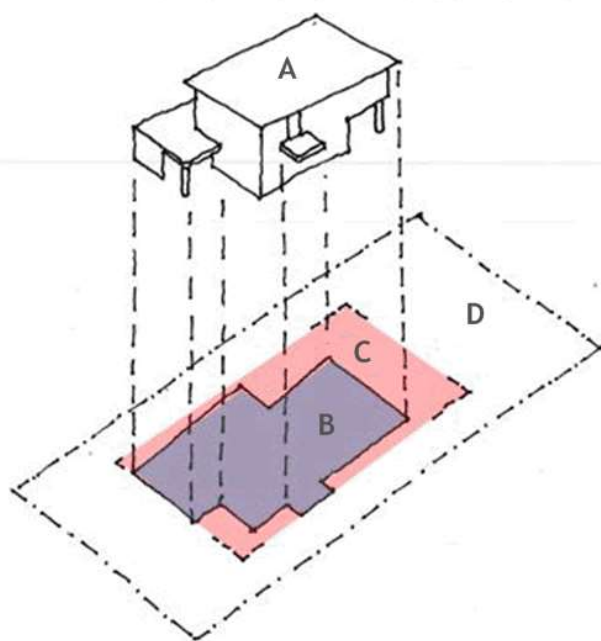


FIGURE 10 Measuring footprint

- A — Building
- B — Footprint
- C — Envelope
- D — Site

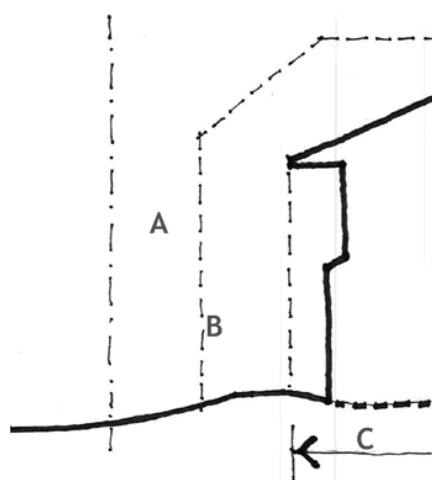


FIGURE 11
Section view of the building showing the footprint
A – Setback
B – Building envelope
C – Footprint

B3.3 Footprint	
Objectives	Controls
<p>O1 – To ensure buildings are consistent with the desired future character of the area.</p> <p>O2 – To ensure the size and location of buildings allow for the sharing of views and minimise impact on the privacy and sunlight access to neighbouring properties.</p>	<p>C1 – The total footprint for development does not exceed the percentage of the site area determined by the footprint table (refer to Figure 12).</p> <p>C2 – The footprint is wholly contained within the building envelope (refer to C6 for exceptions).</p> <p>C3 – The footprint is positioned to:</p> <ul style="list-style-type: none"> a) respond to the predominant character of the immediate streetscape; b) retain public views; and c) provide for view sharing of private views. <p>C4 – The built form complies with solar access and privacy controls in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.</p>
<p>O3 – To encourage the design and location of car parking within the building envelope.</p>	<p>C5 – Where a car parking structure (garage or carport) is wholly or partly provided within the building envelope and the top of the garaging is more than 1.3m above the existing ground level, half the area of the car parking</p>

B3.3 Footprint	
Objectives	Controls
	structure within the building envelope (up to 20m ²) is added to the permitted total footprint”.
O4 — To allow development to respond to the topography and context.	<p>C6 — Notwithstanding C2, the following buildings are permitted outside the building envelope:</p> <ul style="list-style-type: none"> a) an outbuilding (refer B3.7.4) b) parking structures that comply with B3.6 On-site Parking requirements where; <p>— These buildings are only permitted when:</p> <ul style="list-style-type: none"> c) minimum deep soil landscaped area and private open space requirements are met, as set out in Section 3.7.1 Landscaped areas and private open space; and d) solar access and privacy requirements within the site, and to the adjoining properties, are met as set out in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.

Figure 12 Footprint table

Site area (square metres)	Percentage of site areas permitted as footprint (%)	
	All precincts (other than Point Piper)	Point Piper
< 200	55	55
200 – < 250	47	48
250 – < 300	41	44
300 – < 350	37	41
350 – < 400	33.5	38
400 – < 450	31	36.5
450 – < 500	30.5	35.5
500 +	30	35

B3.3 Floorplate

The floorplate control only applies to:

- ▶ [development on land in the R2 Low Density Residential Zone; and](#)
- ▶ [dwelling houses, semi-detached dwellings and dual occupancies in the R3 Medium Density Residential zone.](#)

[Note: The floorplate controls do not apply to land or development types where an FSR applies, such as residential flat buildings, multi dwelling housing, or attached dwellings on land zoned R3 Medium Density Residential.](#)

[Floorplate determines amount of development](#)

[The development potential for a site is determined by the total floorplate. This is calculated as a percentage of the buildable area.](#)

[The buildable area is the area of the site that is identified once the front, rear and side setbacks have been established \(refer to Figure 10\).](#)

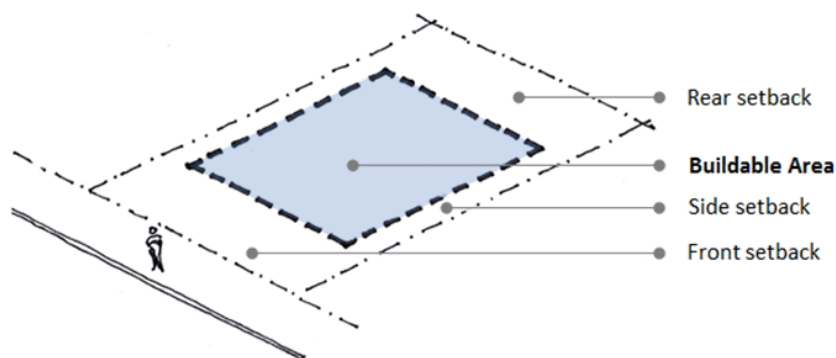
[The maximum amount of development permitted on the site is determined by multiplying the buildable area by a factor of 1.65 \(165%\). This is the maximum permitted total floorplate.](#)

[For example if the buildable area is 150m² the maximum floorplate yield is:
150m² x 1.65 = 247.5m²](#)

[The floorplate is measured at each level. A level is defined as the space between a floor and a level above. If any part of a level is above 1m above exist ground level that area of the level is counted as floorplate \(refer to Figures 11 and 12\).](#)

[The total floorplate may be distributed over multiple levels, but must be wholly contained within the building envelope.](#)

FIGURE 10 [Buildable area](#)



Measuring floorplate

Floorplates are measured to include:

- ▶ the area within the external face of the external walls measured at each level, and
- ▶ the external floorplate which includes covered decks, covered balconies, entry porches, verandahs, porte-cocheres, under crofts and the like (refer to Figures 11 and 12).
- but excludes:
 - ▶ uncovered external areas, such as terraces, decks and balconies, and
 - ▶ levels below 1m above existing ground level (refer Figure 12)
 - ▶ **eaves.**

FIGURE 11 Measuring floorplate (aerial view)

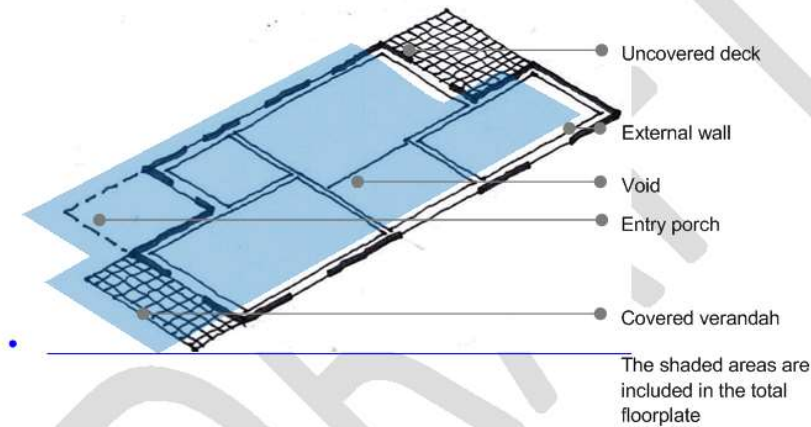
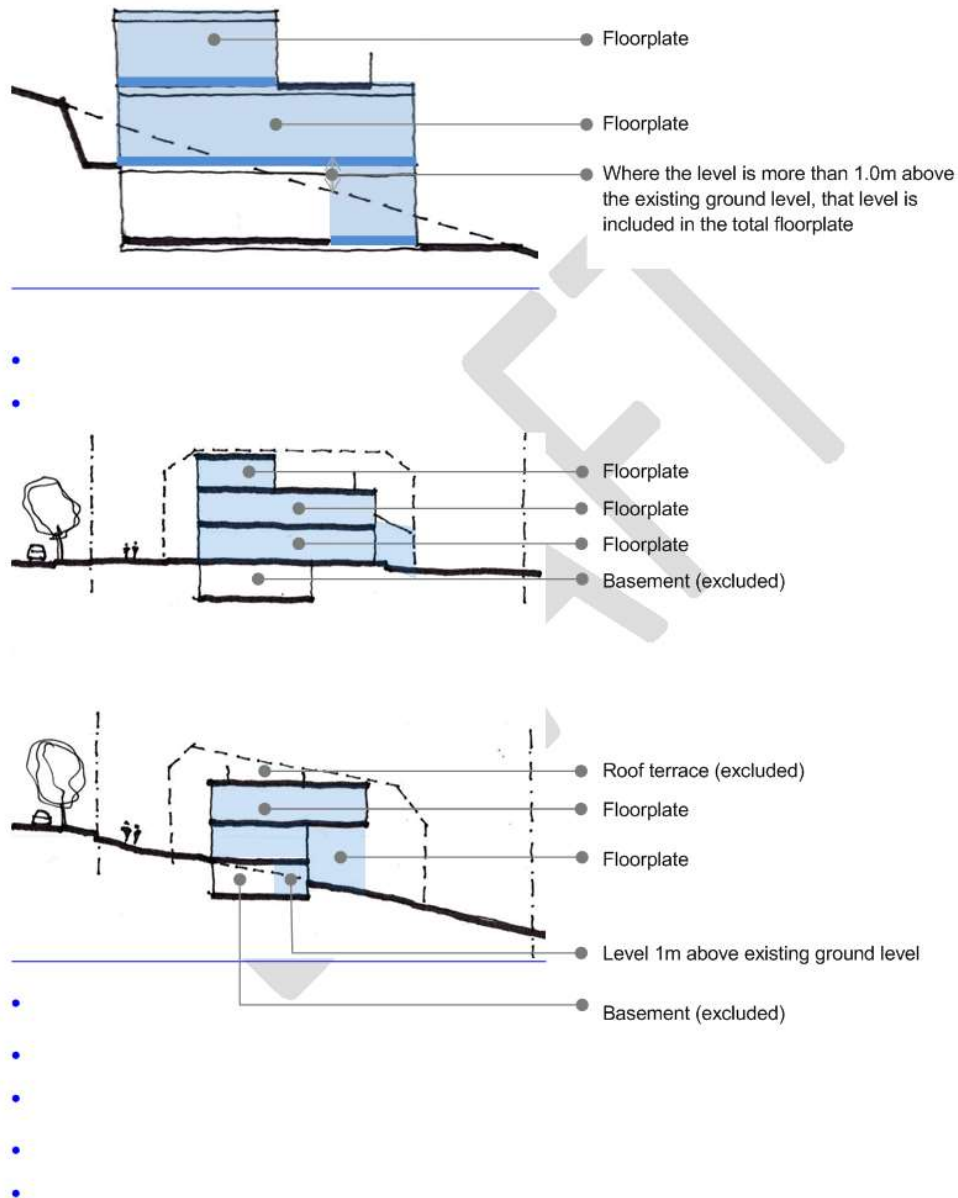


FIGURE 12 Measuring floorplate (section view)

The following examples illustrate elements of the built form that are included in the calculation of the floorplate:



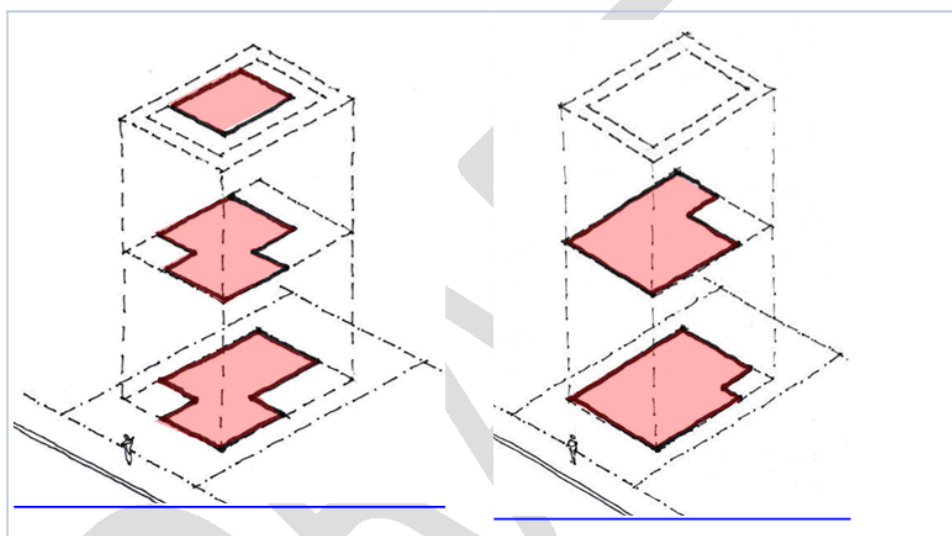
Applying the floorplate to development

Dwelling houses, dual occupancies, semi-detached and attached dwellings may have one, two or three storeys, depending on the proposed building design and the desired future character of the area.

The proposed development must be located within the building envelope.

The area of the floorplates is calculated at each level of the building. The total area of all floorplates must not be more than 165% of the buildable area.

FIGURE 13 The same floorplate distributed differently within the same building envelope.



B3.3 Floorplates

Objectives	Controls
O1 To ensure the bulk and scale of buildings are consistent with the desired future character of the area.	C1 The total floorplate of a development does not exceed 165% of the buildable area.
O2 To ensure the size and location of buildings allow for the sharing of views and minimise impact on the privacy and sunlight access to neighbouring properties.	C2 The floorplates at each level are wholly contained within the building envelope. (Refer to C6 for exceptions) C2. New floorplate is to be wholly within the building envelope (refer to C6 for exceptions).
	C3 The floorplates at each level are

B3.3 Floorplates	
Objectives	Controls
	<p><u>distributed to:</u></p> <ul style="list-style-type: none"> a) <u>respond to the predominant character of the immediate streetscape;</u> b) <u>retain public views; and</u> c) <u>provide for view sharing of private views.</u> <p>C4 <u>The built form complies with solar access and privacy controls in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.</u></p>
O3 <u>To encourage the design and location of car parking within the building envelope.</u>	C5 <u>Where car parking is provided within the building envelope, the garage area (up to 40m²) is added to the permitted total floorplate.</u>
O4 <u>To allow, in certain circumstances, development outside the building envelope.</u>	C6 <u>Notwithstanding C2, the following buildings are permitted outside the building envelope:</u>
O5 <u>To allow development to respond to the topography and context.</u>	<ul style="list-style-type: none"> d) <u>an outbuilding;</u> e) <u>parking structures but only where:</u> <ul style="list-style-type: none"> – <u>there is rear lane access; or</u> – <u>the site is located on sloping land and garaging forward of the building line is a reasonable response to the topography (as set out in Section B3.6 On-site parking, control C6)</u> – <u>the existing streetscape in the immediate vicinity of the site is characterised by parking structures forward of the building line (as set out in Section B3.6 On-site parking, control C9 and C10).</u> <p><u>These buildings are only permitted when:</u></p> <ul style="list-style-type: none"> f) <u>minimum deep soil landscaped area and private open space requirements are met, as set out in Section 3.7.1</u>

<u>B3.3 Floorplates</u>	
<u>Objectives</u>	<u>Controls</u>
	<p>Landscaped areas and private open space; and</p> <p>g) solar access and privacy requirements within the site, and to the adjoining properties, are met as set out in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.</p>

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B3.4 Excavation

Excavation is an accepted part of development in the Woollahra Municipality where the topography varies. Excavation allows buildings on the sloping sites to be designed to step down and sit into the hillside, and it also enables cars and storage to be accommodated on site in an unobtrusive manner.

However, there are significant environmental impacts associated with extensive excavation, as well as external impacts, such as amenity impacts to adjoining properties during the excavation process.

Council has determined that the volume excavated from a given site should be limited to that which might reasonably be required for car parking and domestic storage requirements, and to allow the building to respond to the site topography in an appropriate manner.

B3.4 Excavation	
Objectives	Controls
O1 To allow buildings to be designed and sited to relate to the topography.	C1 For a dwelling house, dual occupancy or semi-detached dwelling (including attached and detached garaging)—the maximum volume of excavation permitted is no greater than the volume shown in Figure 14A.
O2 To minimise excavation.	
O3 To ensure the cumulative impacts of excavation do not adversely impact land stabilisation, ground water flows and vegetation.	
O4 To minimise structural risks to adjoining structures.	
O5 To minimise noise, vibration, dust and other amenity impacts to adjoining and adjacent properties.	
	C2 For a residential flat building, multi dwelling housing, or attached dwelling development (including attached and detached garaging)—the maximum volume of excavation permitted is no greater than the volume shown in Figure 14B.
	C3 For any other use (including attached and detached garaging) not addressed in C1 and C2 above—the maximum volume of excavation permitted is no greater than the volume shown in Figure 14B.
	C4 A variation to the volume shown in Figures 14A and 14B will be considered, however the maximum volume of excavation permitted will only be the amount needed to accommodate: <ul style="list-style-type: none"> a) car parking to comply with the maximum rates in Part E1 of this DCP and any reasonable access thereto, if the maximum car parking rates are required by the Council; and b) storage at a rate of 20m³ (cubic metres) per dwelling if for a dwelling house, dual occupancy, semi-detached

B3.4 Excavation	
Objectives	Controls
	dwelling or attached housing; or
	c) storage at a rate of 8m ³ (cubic metres) per dwelling if for a residential flat building or multi dwelling housing development.
	C5 The volume controls in C1 and C2 above do not apply to backyard swimming pools and tennis courts located outside the building envelope. (Note: Separate controls apply which limit excavation, refer to Section 3.7.4 Ancillary development - swimming pools, tennis courts and outbuildings).
O4 — To minimise structural risks to adjoining structures.	C6 Basement walls are no closer to the boundary than permitted by the setback controls (refer to Figure 15).
O5 — To minimise noise, vibration, dust and other amenity impacts to adjoining and adjacent properties.	C7 Notwithstanding C6, basement walls for residential flat buildings, multi dwellings housing and attached dwellings are no closer to the boundary than 1.5m (see Figure 16).
	C8 Excavation in relation to an existing attached dwelling, semi-detached dwelling, or attached dual occupancy is not to occur under: <ul style="list-style-type: none"> a) common party walls; b) footings to common party wall; c) freestanding boundary walls; d) footings to freestanding boundary walls.
	C9 Excavation below 2m and/or within 1.5m of the boundary is <u>may be</u> accompanied by a geotechnical and hydrogeological report and a structural report demonstrating that the works will not have any adverse effect on neighbouring structures. Note: Council may identify other circumstances where these reports are required. All reports must be prepared in accordance with Council's guidelines. <u>As a condition of a development consent,</u>

B3.4 Excavation	
Objectives	Controls
	Council may also require the preparation and submission of a pre-commencement dilapidation report for properties neighbouring the development.

FIGURE 14A
Maximum volume of excavation for the site of:
- a dwelling house
- dual occupancy development
- a semi-detached dwelling

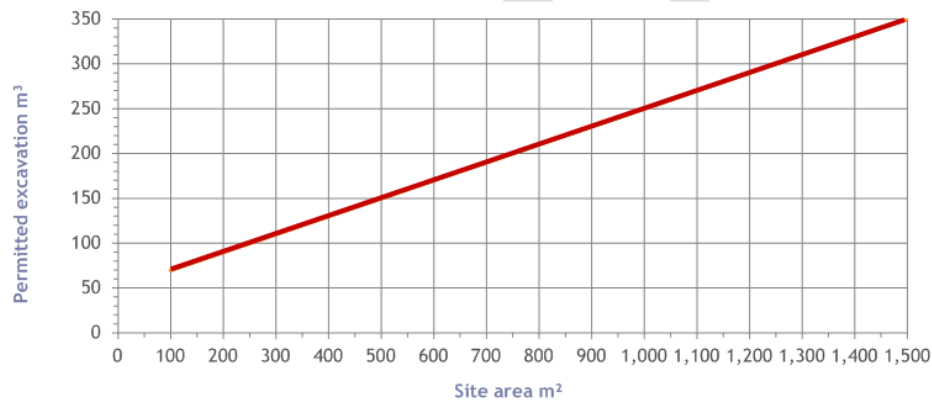
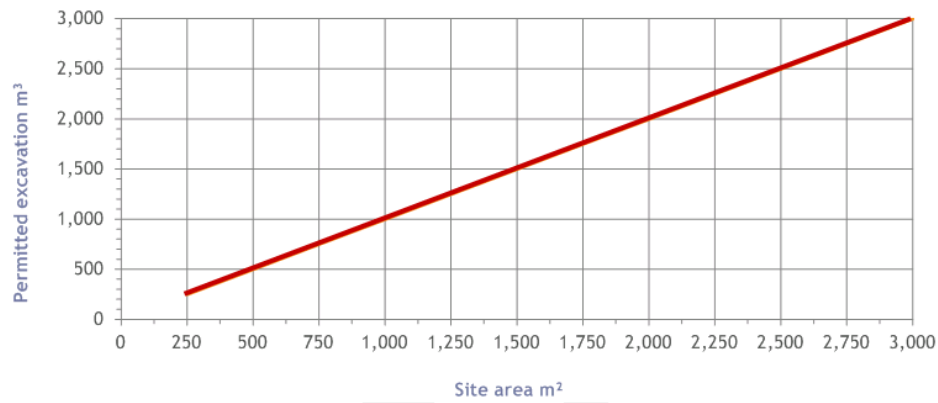


FIGURE 14B

Maximum volume of excavation for the site of:

- a residential flat building
- multi dwelling housing
- attached dwellings
- any other land use not addressed in controls C1 to C2 of Section B3.4 Excavation



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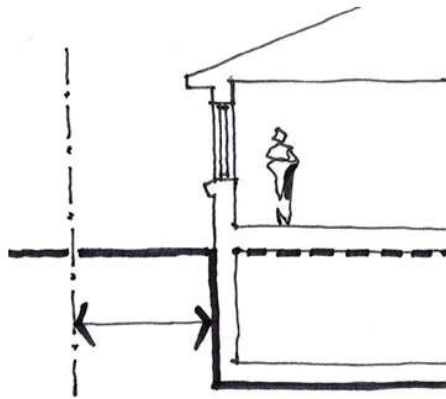


FIGURE 15

For a dwelling house, dual occupancy development and semi-detached dwellings basement walls can be no closer to the boundary than the required setback (refer to Figure 5).

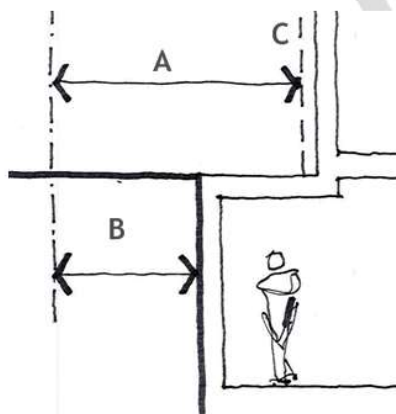


FIGURE 16

For a residential flat building, multi dwelling housing, attached dwellings and any other land use not addressed in controls C1 to C2 of Section B3.4 Excavation, basement walls can be no closer to the boundary than 1.5m.

A- Refer Figure 6

B- Minimum setback 1.5m

C- Building envelope

B3.5 Built form and context

B3.5.1 Streetscape character

A quality streetscape provides good public amenity and contributes to the character and identity of the locality. As character can vary from street to street, it is important that development recognises predominant streetscape qualities, such as building form to ensure a cohesive streetscape character.

B3.5 Built form and context ▶ 3.5.1 Streetscape character		
Objectives	Controls	
O1 To ensure that the built form is compatible with the streetscape and the desired future character of the area.	C1 The building is consistent with the desired future character of the area set out in the precinct controls in Parts B1 and B2 of this DCP.	
O2 To ensure that development is of high visual quality and enhances the street.	Note: Chapters B1 and B2 in this part of the DCP define the desired future character for each precinct or HCA, and identify special streetscape character, heritage and key elements within each precinct.	
O3 To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings.		C2 Development retains existing mature or significant vegetation of landscape value .
		C3 Development steps down sloping sites and follows the topography of the land.
	C4 External building materials and colours do not detract from the streetscape. Bright or obtrusive colour schemes are avoided.	
O4 To ensure that roof forms are consistent with the existing predominant roof forms in the street and minimise impacts to neighbouring properties.	C5 In heritage conservation areas or where the existing the immediate streetscape is predominantly characterised by pitched roof forms, new development incorporates pitched roof forms.	
	C6 Roof materials are non-reflective and do not cause excessive glare to adjacent properties.	
O5 To ensure buildings improve the safety of the public domain.	C7 The building addresses the street and provides opportunities for casual surveillance. At least one habitable room window overlooks the street.	

B3.5.2 Overshadowing

Building bulk should be distributed to minimise overshadowing to neighbouring properties.

Development is to be sited and designed to maximise midwinter solar access to neighbouring properties, having regard to slope, views and existing vegetation.

B3.5 Built form and context ▶ 3.5.2 Overshadowing	
Objectives	Controls
O1 To minimise overshadowing to adjoining properties.	<p>C1 The development is designed so that:</p> <ul style="list-style-type: none"> a) sunlight is provided to at least 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight is not further reduced; and b) north facing windows to upper level habitable rooms of adjacent dwellings receive at least 3 hours of sun between 9am and 3pm on 21 June over a portion of their surface. <p>C2 Lot orientation may make C1 above difficult to achieve so a reduced amount of solar access may be considered, provided the proposed building complies with all setback controls.</p> <p>Note: For land adjoining open space also refer to Section 3.10.1.</p>

B3.5.3 Public and private views

Views are a special element of Woollahra's unique character. The sloping topography, leafy setting and harbour frontage combine to offer dramatic bushland and water views which contribute to the amenity of both private dwellings and the public domain.

In addition, the municipality's frontage to Sydney Harbour places responsibilities upon the Woollahra community, to ensure development maintains the scenic beauty of the foreshore and headland areas when viewed from the water and from the land.

Public views

Public views from streets, footpaths, parks and other public areas are among Woollahra's most prized assets and are key elements of the municipality's identity.

These views may take the form of discrete views between buildings and vegetation, more open views across the harbour and local landscape from public parks, or more defined vistas along streets terminating at Sydney Harbour or local landmarks. Important views and vistas are identified on the precinct maps in Chapters B1 and B2 in this part of the DCP.

The preservation and, wherever possible, enhancement of public views helps to maintain legibility within Woollahra by allowing people to see and interpret the surrounding landscape and landmark features. Public views also allow Woollahra's scenic beauty and special character to be appreciated.

Private views

View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties.

Development should be designed to reflect the view sharing principles in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*.

B3.5 Built form and context ▶ 3.5.3 Public and private views

Objectives	Controls
<p>O1 To protect and enhance existing views and vistas from the public domain.</p> <p>O2 To provide additional views and vistas from streets and other public spaces where opportunities arise.</p>	<p>C1 Development is sited and designed so that the following public views are maintained or enhanced:</p> <ul style="list-style-type: none"> a) significant views and vistas identified in the precinct maps in this Chapter B1 Residential Precincts and Chapter B2 Neighbourhood HCAs of this DCP; and b) views from other public open space areas, particularly from ridgelines to Sydney Harbour and the Sydney CBD

B3.5 Built form and context ▶ 3.5.3 Public and private views	
Objectives	Controls
	<p>skyline.</p> <p>C2 Vistas along streets are preserved or enhanced through sensitive development location and form.</p> <p>C3 Development on the low side of the street preserves district, iconic and harbour views from the street by:</p> <ul style="list-style-type: none"> a) providing substantial breaks between buildings, front fences, car parking and other structures; and b) incorporating fences with transparent or open end panels at each side boundary to provide for views. <p>C4 Roof forms on the low side of streets are designed to allow public views and add interest to the scenic outlook. Flat expansive roofs with vents, air conditioning units and similar structures are inappropriate.</p>
O3 To encourage view sharing as a means of ensuring equitable access to views from private property.	<p>C5 Development is sited and designed to enable a sharing of views with surrounding private properties, particularly from the habitable rooms (refer to Figures 17 and 18).</p> <p>C6 Development steps down the hillside on a sloping site.</p> <p>C7 The design of the roof form provides for view sharing.</p> <p>C8 Roof terraces are uncovered to provide for view sharing. All elements on roof terraces are to comply with the maximum building height control.</p>

B3.5 Built form and context ▶ 3.5.3 Public and private views	
Objectives	Controls
<p>O4 To ensure that views are not compromised by inappropriate landscaping.</p>	<p>C9 The location and species of new tree planting frames and preserves public and private views. Planting must not be used to block views.</p> <p>C10 In sloping areas, the location of new tree planting frames and preserves public views. This may be achieved:</p> <ul style="list-style-type: none"> e) on the high side of streets—by concentrating new tree planting at the front of buildings within the side setbacks; and f) on the low side of streets—by concentrating new tree planting at the front of buildings outside the side setbacks (refer to Figure 18).

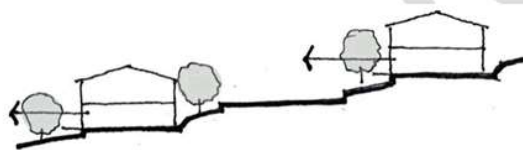


FIGURE 17
View sharing

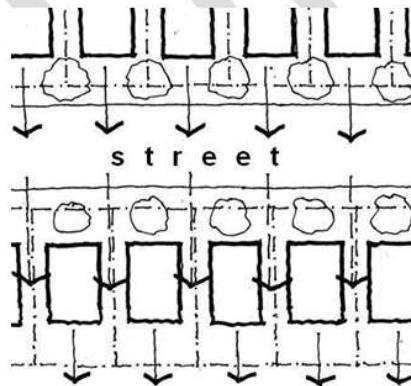


FIGURE 18
Where to locate vegetation to accommodate view paths

B3.5.4 Acoustic and visual privacy

Privacy refers to both acoustic and visual privacy. The privacy needs of residents and neighbours should influence all stages of design, from the location of buildings and the placement of windows and private open space through to the selection of materials and construction techniques.

This section contains objectives and controls for acoustic and visual privacy for buildings that have the potential to impact on adjoining and adjacent residential development.

It is important to note however, that privacy issues are an inherent component of urban living. In many cases some degree of mutual overlooking and/or noise from property to property is unavoidable.

Acoustic privacy

The level of acoustic privacy depends upon the location of habitable rooms relative to noise sources such as habitable rooms, decks, terraces, driveways, air conditioning units, swimming pool pumps and major roads.

Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings. This may be achieved by:

- ▶ ensuring that bedrooms of one dwelling do not share walls with the habitable rooms (excluding bedrooms) or parking areas of the adjacent dwelling;
- ▶ locating bedroom windows at least 3m from streets, shared driveways and parking areas of other dwellings; and
- ▶ separating bedrooms, by way of barriers or distance, from on-site noise sources such as active recreation areas, car parking area, vehicle accessways and service equipment areas.

Visual privacy

The visual privacy controls apply to habitable rooms. This includes rooms such as a bedroom, living room, lounge room, kitchen, dining room and the like. Maintaining visual privacy within and from these types of habitable rooms is most important, as these are the common living areas in a dwelling. The controls also address the private open spaces of dwellings.

The controls establish a hierarchical framework for addressing privacy and overlooking. In this hierarchy glazed fixed windows and windows with high sills are the least preferred option and should only be considered in limited circumstances when all other options have been exhausted.

Note:

- ▶ Under the BCA, habitable rooms exclude a bathroom, laundry hallway, lobby, and other like spaces of a specialised nature occupied neither frequently nor for extended periods.
- ▶ Nothing in this section restricts a person from replacing a window with another window, where the replacement window is in the same location and of the same or a smaller size.

B3.5 Built form and context ▶ 3.5.4 Acoustic and visual privacy	
Objectives	Controls
<p>O1 To ensure adequate acoustic privacy for occupants and neighbours.</p>	<p>C1 Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings.</p> <p>C2 Dwellings located close to high noise sources, such as a busy road or railway line are to:</p> <ul style="list-style-type: none"> a) be designed to locate habitable rooms and private open space away from the noise source; and b) include sound attenuation measures, such as acoustic glazing and insulation. <p>Note: Shared walls and floors between dwellings must be designed in accordance with the sound transmission and insulation criteria of the Building Code of Australia.</p> <p>C3 Electrical, mechanical, hydraulic and air conditioning equipment is housed so that it does not create an 'offensive noise' as defined in the Protection of the <i>Environment Operations Act 1997</i> either within or at the boundaries of any property at any time of the day.</p>
<p>O2 To ensure adequate visual privacy for occupants and neighbours while balancing the need to provide for reasonable levels of environmental amenity, including access to sunlight and ventilation, and good architectural outcomes.</p>	<p>C4 New windows in habitable rooms are designed to prevent a direct sightline to the habitable room windows or private open space of an adjacent dwelling within 9m.</p> <p>This may be achieved by options including, but not limited to (in order of preference):</p> <ul style="list-style-type: none"> a) Window location—primary windows to habitable rooms are located and designed to provide an outlook to the front and rear setbacks, not the side boundaries. b) Layout and separation—offsetting windows from the windows/private open spaces of the adjoining dwelling to limit views between the windows/private open space. c) Architectural design solutions and devices—redirecting and limiting sightlines using deep sills with planter

B3.5 Built form and context ▶ 3.5.4 Acoustic and visual privacy	
Objectives	Controls
	<p>boxes, fixed horizontal or vertical louvres, or other screening devices set off the windows internally or externally.</p> <p>d) Glazed opening windows—using windows with translucent glazing to a height of 1.5m above floor level and fitted with a winder mechanism to control the maximum angle of the opening to limit views.</p> <p>e) Glazed fixed windows or high sills—using fixed windows with translucent glazing in any part of the window below 1.5m above floor level, or window sill heights of 1.5m above floor level.</p> <p>Note: Applicants may be required to demonstrate how privacy impacts are resolved by way of view line diagrams, photographs and other suitable means.</p> <p>C5 Windows to bathrooms and toilet areas have translucent glazing where these have a direct view to, and from, habitable rooms and private open space on adjoining and adjacent properties.</p> <p>C6 Architectural design solutions and screening devices referred to in C4 (c) above are integrated with the overall design and contribute to the architectural merit of the building, having particular regard to:</p> <ul style="list-style-type: none"> a) aesthetics of the building including impacts on visual bulk; b) compliance with minimum boundary setback controls; c) appearance from adjoining properties; and d) views from adjoining or adjacent properties.

B3.5 Built form and context ▶ 3.5.4 Acoustic and visual privacy	
Objectives	Controls
<p>O3 To minimise the impacts of private open space. areas when located above ground level area.</p>	<p>C7 Balconies, decks, terraces including roof terraces and the like, within a development are suitably located and screened to prevent direct views into habitable rooms (including bedrooms) or private open space of the adjoining and adjacent dwellings.</p> <p><u>C7 Private open spaces and the trafficable area of roof terraces (at or below the second storey) (refer to Figure 19) are to be suitably located and screened to prevent direct views to neighbouring:</u></p> <ul style="list-style-type: none"> a) <u>habitable rooms (including bedrooms) within 9m; and</u> b) <u>private open space within 9m.</u> <p><u>Note: Private open space includes an area external to a building including land, terrace, balcony or deck.</u></p> <p>C8 For a dwelling house, dual occupancy, semi-detached dwelling, or attached dwelling—the acceptability of any elevated balcony, deck, or terrace will depend on the extent of its impact, its reasonableness and its necessity.</p> <p>Note: Refer to <i>Super Studio vs Waverley Council, (2014) NSWLEC 91</i></p> <p>C9 Windows and balconies of an upper-level dwelling are designed to prevent overlooking of the private open space of a dwelling below within the same development.</p> <p>C10 The trafficable area of a roof terrace or upper level decks (above the second storey) (refer to Figure 19) is setback so that there is no direct line of sight, from that part of the building where the terrace or deck is, to:</p> <ul style="list-style-type: none"> a) neighbouring private open space within 12m; or b) windows of habitable rooms in neighbouring dwellings within 12m.

B3.5 Built form and context ▶ 3.5.4 Acoustic and visual privacy	
Objectives	Controls
	<p>C11 Lighting installations on a roof terrace or upper level deck are:</p> <ul style="list-style-type: none"> a) contained within the roof terrace area and located at a low level; or b) appropriately shaded and fixed in a position so light is projected downwards onto the floor surface of the terrace. <p>Note: Lighting of roof terraces must be designed in compliance with <i>Australian Standards 4282-1997 Control of obtrusive effects of outdoor lighting</i>.</p>
<p>O4 To ensure that where roof terraces are inserted into existing roofs, they do not impact on the roof profile.</p>	<p>C12 For a roof terrace within the existing roof a building:</p> <ul style="list-style-type: none"> a) no part of the roof terrace or associated structures, such as a balustrade, projects beyond the roof profile; and b) the roof terrace and opening within the roof are clearly subservient in form and size when compared with the roof plane in which they are located.

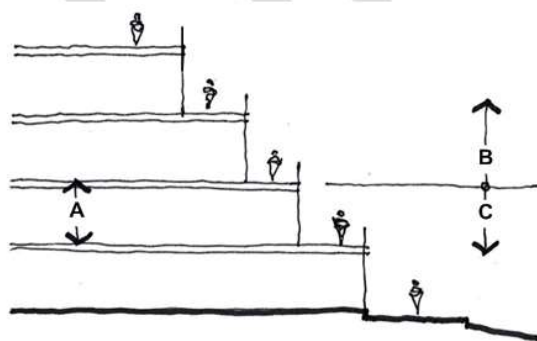


FIGURE 19
Application of the visual privacy controls to roof terraces

A - Second storey

B - Refer to B3.5.4 C10

C - Refer to B3.5.4 C7

B3.6 On-site parking

On-site parking, including garages, carport, hardstand areas and driveways, must be carefully designed to not detract from the appearance of the development and the streetscape.

In particular, on-site parking should not dominate the street frontage, and driveway openings should be limited to protect pedestrian safety and to preserve streetscape amenity such as trees and on-street parking. On-site parking should also be designed to limit the extent of impervious surfaces and excavation and to allow landscaped area in the front setback.

Note: The number of on-site parking spaces for a development is set out in Part E, Chapter E1 Parking and Access.

B3.6 On-site parking	
Objectives	Controls
O1 To minimise the visual impact of garages, car parking structures and driveways on the streetscape.	C1 On-site parking is designed and located so that it: a) does not dominate the street frontage; b) preserves significant trees and vegetation of landscape value ; and c) is located within the building envelope.
O2 To ensure that on-site parking does not detract from the streetscape character and amenity.	
O3 To minimise loss of on-street parking.	
<u>O4 To retain trees and vegetation of landscape value.</u>	C2 For car parking structures garages facing the street frontage— the maximum car parking structures garage width is no greater than 40% of the site frontage width or 6m, whichever is the lesser.
	C3 Where possible on-site parking is to be accessed from the rear. The width of parking structures can occupy 75% of the rear frontage or 6m (whichever is the lesser). The site area of the parking structure can be no greater than 40m ² and the height a maximum of 3.6m high .
	C4 Where there is no rear lane access, on-site parking is located within the building envelope.
	C5 Development involving three or more dwellings provides basement parking.

B3.6 On-site parking	
Objectives	Controls
<p>O5 4 To facilitate on-site parking on steeply sloping sites.</p>	<p>C6 Notwithstanding C4, garages <u>car parking structures</u> may be located in the front setback (i.e. outside the building envelope) where:</p> <ul style="list-style-type: none"> a) the rise or fall measured to a distance of 7m from the street frontage is greater than 1 in 3 (<u>refer to Figure 20A</u>); and b) the garage <u>car parking structures</u> is incorporated into a podium or street wall; and c) the garage <u>car parking structures</u> is not more than 40m² in area. <p>C7 For garages <u>car parking structures</u> located in the front setback, the maximum height of the garage structure is 2.7m above the footpath level. If the existing height of the retaining/street wall or the two adjoining garages <u>car parking structures</u> structures is higher than 2.7m, that greater height may be permitted (refer to <u>Figure 20B 19</u>).</p> <p>C8 For garages <u>car parking structures</u> on the high side of the street—balustrading to trafficable areas on top of the garage <u>structure</u> is setback at least 1m from the front boundary, and is of an open or transparent form (refer to <u>Figure 20B</u>).</p>
<p>O6 5 To ensure that on-site parking is designed and integrated with the principal building on the site.</p>	<p>C9 For separate structures, the roof form, materials and detailing complement the principal building.</p>
<p>O7 6 To ensure that on-site parking does not detract from the streetscape character and amenity.</p>	<p>C10 Garage doors are designed to complement the building design and any important character elements within the street.</p> <p>C14 Materials characteristic of the street are used for new structures at the street edge.</p>

B3.6 On-site parking	
Objectives	Controls
<p>O8.7 To minimise the visual and environmental impacts of driveways and other hard stand areas associated with car parking.</p>	<p>C11.12 The width of driveways is minimised. Generally the width is no more than the minimum width required to comply with the relevant Australian Standards (see Section E1).</p> <p>C12.13 Only one driveway entrance is provided. For example, development involving more than one dwelling shares the driveway access.</p> <p>C13.14 Where soil and drainage conditions allow, semi-porous surfaces are used for uncovered car parking and driveway areas to facilitate on-site stormwater infiltration and reduce limit the visual impact of hard-surface areas.</p>

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FIGURE 20A

Garaging Car parking structures in front setback

On sites where the gradient measured to a distance of 7m (A) from the street frontage is greater than 1 in 3 (B), Council may permit **garages car parking structures** forward of the building line if incorporated into a podium/street wall.

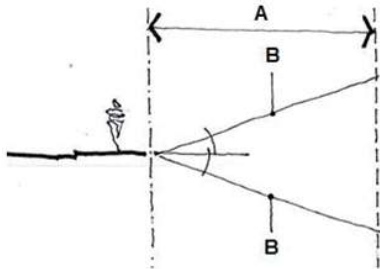
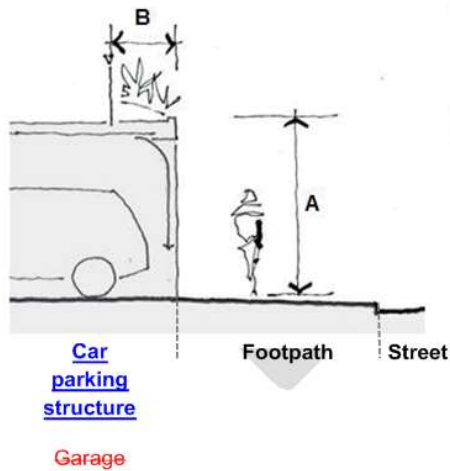


FIGURE 20B

Garaging Car parking structures at front boundary

A = The **garage car parking structures** height at the front boundary is to be no more than 2.7m above the pavement

B = Any balustrading on the **garage car parking structures** is to be set back 1m



B3.7 External areas

B3.7.1 Landscaped areas and private open space

Open space and landscaping play important roles in the preservation of wildlife habitat, the establishment of community identity, the provision of recreation opportunities and stormwater management.

Private open space

Private open space contributes towards the amenity of individual dwellings and should be clearly delineated from public and communal areas. Private open space may be provided at or above ground level. Above ground open space may comprise balconies or rooftop areas.

Communal open space

Communal open space comprises shared open space available for use by all residents of a housing development. Communal open space may include landscaped areas, swimming pools or tennis courts and is typically controlled by a body corporate.

Landscaping

Landscaped area is defined in Woollahra LEP 2014 to mean “a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area”.

Deep soil landscaped area is the part of a site that contains landscaped area which has no above ground, ground level or subterranean development.

Landscaped areas within developments may comprise both communal and private open space areas. Landscape treatment helps to determine the amenity of individual dwellings, define private and public areas, reinforce or screen views and define streetscape character.

The amount and composition of landscaped area also plays an important role in stormwater management, the energy efficiency of developments and access to sunlight. Existing trees and vegetation may support significant indigenous wildlife populations and habitat.

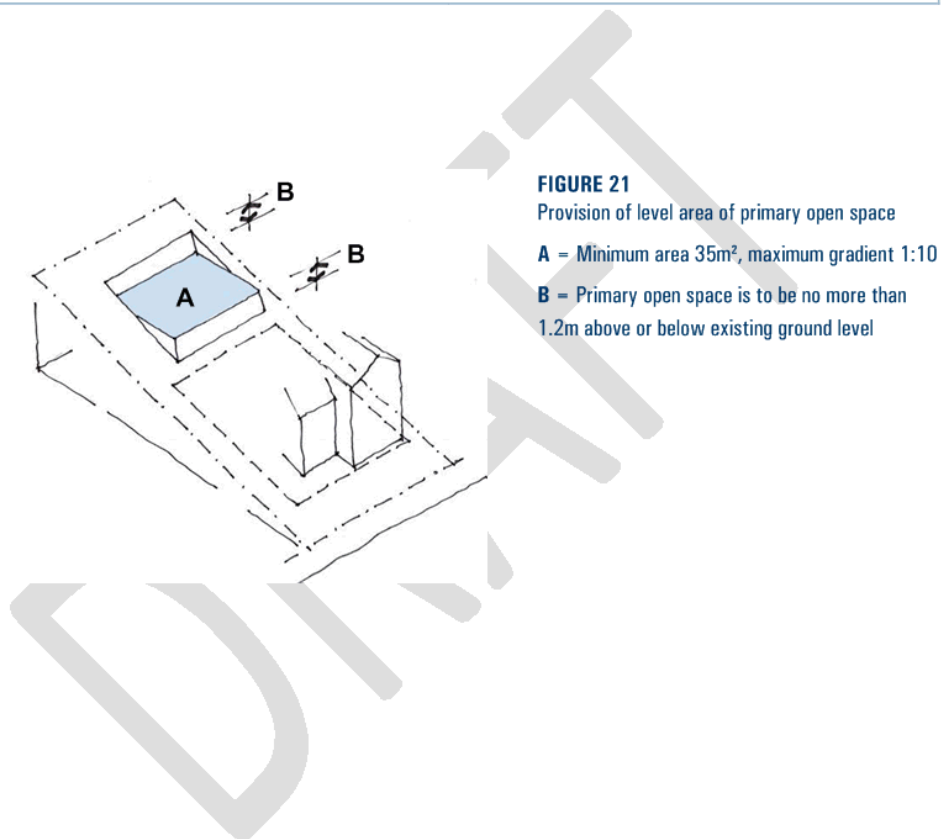
B3.7 External areas ▶ 3.7.1 Landscaped area and private open space	
Objectives	Controls
O1 To ensure that the areas outside the footprint floorplate contribute to the desired future character of the location.	C1 For development in the R2 and R3 residential zones—at least 50% 40% of the site area outside the footprint buildable area is deep soil landscaped area.
O2 To provide sufficient deep soil landscaped area to support substantial vegetation.	C2 At least 40% of the front setback comprises deep soil landscaped area, and: <ul style="list-style-type: none"> a) for a residential flat building or multi dwelling housing in the Wallaroy, Manning Road, Darling Point, Bellevue Hill South, Bellevue Hill North or Rose Bay precinct—at least one consolidated area of the deep soil area is at least 20m²; and b) for a residential flat building or multi dwelling housing in the Double Bay or Point Piper precinct—at least one consolidated area of the deep soil area is at least 12m².
O3 To provide for on-site stormwater absorption.	C3 Control C2 above does not apply to land in Rose Bay between Caledonian Road and Vickery Avenue zoned R3 Medium Density Residential. C4 At least 50% of the rear setback comprises deep soil landscaped area. C5 The deep soil landscaped area is free of garaging, paving, outbuildings, tennis courts, swimming pools, above ground and below ground structures including stormwater works.
O4 To ensure the adequate provision of accessible and useable primary open space.	C6 For a dwelling house—a primary open space area of at least 35m ² is provided. C7 For each dwelling within a semi-detached dwelling, dual occupancy or attached dwelling—a primary open space area of at least 35m ² is provided. C8 The primary open space area in C6 and C7 above has a gradient of no more than 1 in 10 (refer to Figure 21). C9 Excavation <u>or fill</u> is permitted to achieve the required level area of primary open

B3.7 External areas ▶ 3.7.1 Landscaped area and private open space	
Objectives	Controls
	<p>space up to 1.2m from existing ground level (refer to Figure 21).</p> <p>C10 Part of the primary open space area is directly accessible from a habitable room.</p>
<p>O5 To ensure that dwellings in residential flat buildings and multi dwelling housing are provided with adequate private open space that enhances the amenity of the dwellings.</p>	<p>C11 For residential flat building or multi dwelling housing—each dwelling is provided with private open space which has a minimum area of 8m² and minimum dimensions of 2m x 2m. For dwellings above ground level, this may be in the form of a balcony, verandah or uncovered roof terrace and the like.</p>
<p>O6 To ensure that private open space areas are well-designed.</p>	<p>C12 Development takes advantage of opportunities to provide north facing private open space to achieve comfortable year round use.</p> <p>C13 Private open space is clearly defined for private use through planting, fencing or landscape features.</p> <p>C14 The location of private open space: <ul style="list-style-type: none"> a) takes advantage of the outlook and natural features of the site; b) reduces the adverse privacy and overshadowing impacts; and c) addresses surveillance and privacy where private open space abuts public space. </p> <p>C15 A roof terrace and associated structures will only be considered where the size, location and design of the terrace meets the requirements in Section 3.5.4 Acoustic and visual privacy.</p>

B3.7 External areas ▶ 3.7.1 Landscaped area and private open space	
Objectives	Controls
07 To retain important existing mature trees, vegetation and other landscape features.	C16 Existing significant trees and vegetation of landscape value are incorporated into the landscape area and treatment.
08 To protect or enhance indigenous wildlife populations and habitat through appropriate planting of indigenous vegetation species.	C17 Native species are preferred, and landscape designs are encouraged to provide at least 50% of the plants as native species.
09 To ensure that landscaping contributes positively to the streetscape and the amenity of adjoining residents.	C18 Landscaping provides for a diversity of native species and a complexity of habitat through vertical layering. Note: Vertical layering, by planting a variety of vegetation in different sizes and heights provides more cover and feeding opportunities for wildlife species.
010 To ensure that landscaping allows view sharing.	C19 Landscaping facilitates the linking of open space reserves through wildlife corridors and reduces habitat fragmentation and loss.
	C20 The landscape design: <ul style="list-style-type: none"> a) uses vegetation types and landscaping styles which contribute to the streetscape and desired future character objectives for the locality; b) uses vegetation types that will not block views; c) does not adversely affect the structure of the proposed building or buildings on adjoining properties; d) considers personal safety by ensuring good visibility along paths and driveways and avoiding shrubby landscaping near thoroughfares; e) contributes to energy efficiency and amenity by providing substantial shade in summer, especially to west facing windows and open car park areas and admitting winter sunlight to outdoor and living areas and other habitable rooms; f) improves privacy between dwellings;

B3.7 External areas ▶ 3.7.1 Landscaped area and private open space

Objectives	Controls
	<ul style="list-style-type: none"> g) minimises risk of damage to overhead power lines and other services; and h) provides adequate sight lines for vehicles and pedestrians, especially near street corners and intersections.



B3.7.2 Fences

Fences and walls play major roles in determining the appearance of developments and their contribution towards the streetscape. Carefully designed fences and walls help to integrate developments into the existing streetscape. However, when poorly designed they can unduly dominate the streetscape and reduce opportunities for neighbourhood surveillance and social interaction.

This DCP seeks to recognise both the importance of fences and walls to the privacy and security enjoyed by individual properties and the potential of fences and walls to contribute to creating or enhancing attractive streetscapes.

B3.7 External areas ▶ 3.7.2 Fences	
Objectives	Controls
O1 To ensure fences and walls improve amenity for existing and new residents and contribute positively to streetscape and adjacent buildings.	C1 Fencing is designed and located to protect the inhabitants of the property, and allows for casual surveillance from the building to the street.
O2 To ensure that fences and walls are not visually intrusive in the streetscape and to enhance pedestrian safety.	C2 The arrangement of built form, fences, landscaping and other features clearly defines any public, common, and private space.
O3 To ensure that fences and walls do not unreasonably restrict views and vistas from streets and other public spaces.	C3 Front fences and walls assist in defining building entrances.
O4 To ensure that development creates well defined areas of public and private space.	C4 The height of front fences does not exceed: <ul style="list-style-type: none"> a) 1.2m if solid; or b) 1.5m if 50% transparent or open; unless otherwise specified in the precinct controls in Chapters B1 and B2 of this part of the DCP. Note: Chapters B1 and B2 define the desired future character for each precinct, and identify any special heritage, streetscape character and key elements within each precinct.
	C5 Fences and gates on the low side of the street adjacent to each side boundary incorporate transparent or open panels to preserve district, iconic and harbour views from the street.

B3.7 External areas ▶ 3.7.2 Fences	
Objectives	Controls
	<p>C6 On the high side of streets where there is an increase in ground level in excess of 1.2m on the property side of the street alignment—the height of front fences and walls may increase to 1.2m from the level of the high side (refer to Figure 22).</p> <p>C7 Gates do not encroach over the street alignment when opening or closing.</p> <p>C8 Where a vehicular entrance is proposed in conjunction with a fence of height greater than 1.2m—a 45° splay or its equivalent is provided either side (as applicable) of the entrance to ensure driver and pedestrian vision. The splay is to have minimum dimensions of 2m x 2m (refer to Figure 23).</p>
<p>O5 To ensure boundary fences between sites provide visual privacy without affecting the amenity of those sites in terms of views and sunlight.</p>	<p>C9 The rear and side fences:</p> <ul style="list-style-type: none"> a) are located behind the building front setback; and b) do not exceed 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary. <p>C10 Where there is a difference in ground level in excess of 1.2m either side of the boundary—the height of fences and walls may increase to 1.2m from the level of the high side (refer to Figure 24).</p>
<p>O6 To ensure fences and walls are sympathetic to the topography.</p>	<p>C11 For sloping streets—the height of fences and walls may be averaged and fences and walls may be regularly stepped.</p>

B3.7 External areas ▶ 3.7.2 Fences

Objectives	Controls
O7 To protect and retain fences and walls that are important character elements for the precinct.	C12 Remnant sandstone and garden walls are retained and adequately maintained.
O8 To ensure materials used in fences and walls are a high quality and in keeping with the existing streetscape character and character of the building.	C13 Existing retaining walls that are important character elements in the street or precinct are retained.
	C14 Existing fences, particularly those constructed from sandstone, that are significant or represent important character elements in the street or precinct are retained.
	C15 The design and materials of front fences and walls are compatible with those fences and walls that contribute positively to the streetscape, (and the heritage context in the case of heritage conservation areas), and satisfy the desired future character and precinct controls in Chapters B1 and B2 of this DCP.
	C16 Fences and walls made from corrugated iron, barbed wire, and the like are not permitted.

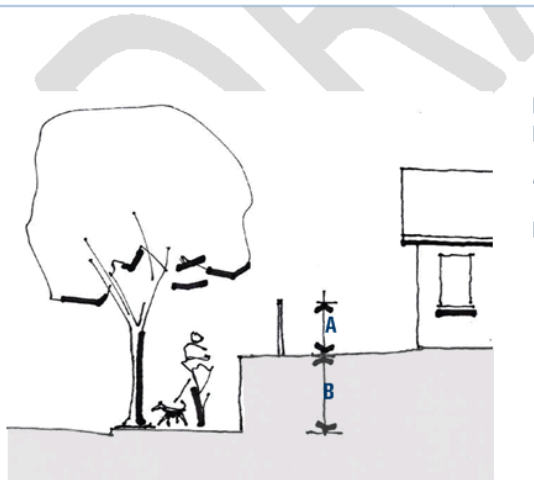


FIGURE 22
Front fences on the high side of streets
A = 1.2m maximum
B = Increase in ground level greater than 1.2m

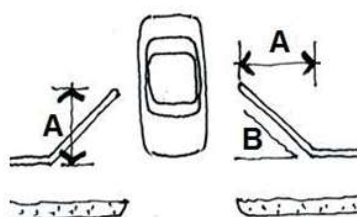


FIGURE 23

Splays for driveway entrances where fence height exceeds 1.2m

A = 2m minimum

B = 45° splay

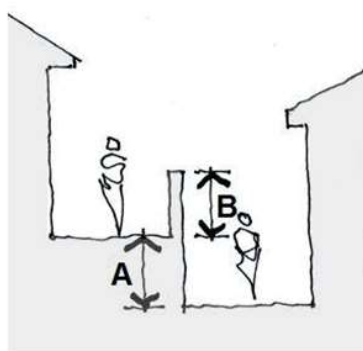


FIGURE 24

Side and rear boundary fences where levels change between properties

A = Increase in ground level greater than 1.2m

B = 1.2 maximum

B3.7.3 Site facilities

Some site facilities including mail boxes, clothes drying areas and laundry facilities are essential or common features in contemporary residential development. Others such as radio aerials and satellite dishes are less frequently required. The potential impacts of site facilities on the overall appearance of developments and the local streetscape need to be considered.

B3.7 External areas ▶ 3.7.3 Site facilities

Objectives	Controls
O1 To ensure that mail boxes are suitably located and designed.	C1 Lockable mail boxes are provided close to the street and are integrated with front fences or building entries.
O2 To provide adequate storage facilities in residential development.	C2 Lockable storage space of at least 8m ³ per dwelling is provided.

B3.7 External areas ▶ 3.7.3 Site facilities	
Objectives	Controls
O3 To encourage the use of natural resources to dry clothes.	C3 Development that includes a residential component provides opportunity for at least one external clothes drying area.
O4 To ensure external clothes drying areas are suitably located.	C4 External clothes drying areas have access to sunlight, and are located in a secure place away from public spaces and screened from public view. Note: External drying areas may be located in the deep soil landscaped area.
O5 To ensure that aerials, antennae, and communications dishes must be thoughtfully integrated into development and are unobtrusive.	C5 Developments involving three or more dwellings share one common television antennae or satellite dish. C6 The design and location of aerials, antennae, and communications dishes: a) do not have an unreasonable impact on the architectural character of the building to which it is attached; b) are not visually intrusive within the streetscape; and c) do not have an unreasonable impact on the amenity of adjoining and adjacent properties.

B3.7 External areas ▶ 3.7.3 Site facilities	
Objectives	Controls
<p>O6 To ensure that mechanical plant equipment including air-conditioning units including and external condensers, do not have adverse streetscape or amenity impacts.</p>	<p>C7 Mechanical plant equipment Air-conditioning units are not be visible from the streetscape or public domain.</p> <p>C8 Mechanical plant equipment Air-conditioning units do not unreasonably impact on the visual or acoustic amenity of adjoining properties. The impact on neighbours is less than the impact on the occupants of the site where the air-conditioning unit is located.</p> <p>C9 Mechanical plant equipment Air-conditioning units are suitably enclosed or screened to minimise noise impacts to adjoining properties.</p> <p>Note: Noise emissions from mechanical plant equipment air-conditioning units must not exceed the background noise levels when measured at the boundary of the development site. The provisions of the <i>Protection of the Environment Operations Act 1997</i> apply.</p>
<p>O7 To protect the air quality and residential amenity.</p>	<p>C10 New fireplaces burn non-solid fuels, e.g. gas or electricity.</p>
<p>O8 To ensure that development incorporates adequate garbage and recycling collection areas.</p>	<p>C11 Refer to Part E of the DCP, Chapter E5 Waste Management.</p>
<p>O9 To ensure that site services do not have a negative impact on the streetscape.</p>	<p>C12 Site services including hydrants, boosters and meters are incorporated into the landscape design and are not visually intrusive within the streetscape.</p>

B3.7.4 Ancillary development – swimming pools, tennis courts and outbuildings

Swimming pools

A swimming pool is an impermeable structure capable of holding water to a depth greater than 300mm for swimming or other recreation purposes, but does not include a spa pool.

B3.7 External areas ▶ 3.7.4 Ancillary development - swimming pools	
Objectives	Controls
O1 To provide for recreational opportunities for swimming without compromising the amenity of the adjoining properties.	C1 The swimming pool does not occupy the deep soil landscaped area.
O2 To limit excavation.	C2 Excavation beyond the controls in Section B3.4 is permitted to accommodate a backyard swimming pool, where the pool is outside the building envelope. Note: This concession does not apply to a swimming pool in a basement area.
<u>O3 To retain trees and vegetation of landscape value.</u>	C3 The swimming pool (measured from the outer water edge including pool coping) is at least 1.5m 1.8m from property boundaries.
	C4 The swimming pool surrounds are no more than 1.2m above or below the existing ground level.
	C5 The swimming pool is no deeper than 2m from the pool surround level (refer to Figure 25).
	C6 The location and design of the swimming pool and associated works do not adversely impact on prescribed trees (refer to Chapter E3 Tree Management).

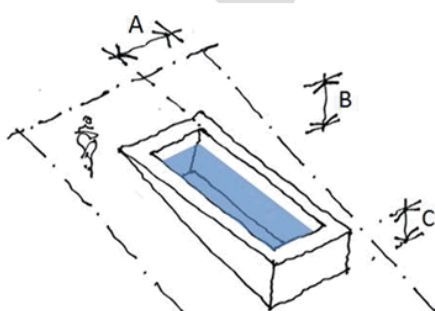


FIGURE 25
Provision of private swimming pools

- A is a minimum of ~~1.5m~~ **1.8m**
- B = pool depth is a maximum of 2m
- C is to be a maximum of 1.2m

Tennis courts

Tennis courts are rectangular recreational areas, approximately 24m x 11m, with a low net stretched across the centre. They are usually fenced to retain balls on the court during play.

B3.7 External areas ▶ 3.7.4 Ancillary development - tennis courts	
Objectives	Controls
O1 To provide recreational opportunities for playing tennis without compromising the amenity of adjoining and adjacent properties.	C1 The tennis court level is a maximum of 1.2m above or below the existing ground level (refer to Figure 26).
O2 To limit excavation.	C2 The tennis court is at least 1.5m from property boundaries (refer to Figure 26).
O3 <u>To retain trees and vegetation of landscape value.</u>	C3 The court playing surface is made from a material that minimises light reflection.
	C4 The height and location of court fencing does not unreasonably compromise: <ul style="list-style-type: none"> a) sharing of views from surrounding properties; or b) solar access to adjoining properties.
	C5 Fencing material is a recessive colour.
	C6 Where floodlighting is proposed, the lighting does not unreasonably impact on the amenity of adjoining or adjacent properties.
	C7 The location of the tennis court and associated works does not adversely impact on prescribed trees (refer to Chapter E3 Tree Management).

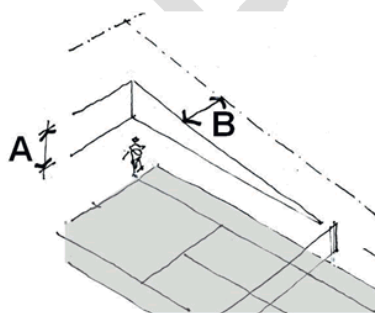


FIGURE 26
Provision of private tennis courts on residential sites

A is to be a maximum of 1.2m

B is to be a minimum of 1.5m

Outbuildings

Although development outside the building envelope is generally not permitted, small outbuildings such as a cabana, cubby house, fernery, garden shed, gazebo, greenhouse or the like, may be located within the rear the setback.

B3.7 External areas ▶ 3.7.4 Ancillary development - outbuildings	
Objectives	Controls
<p>O1 To ensure that outbuildings do not unreasonably compromise the amenity of the occupants or the adjoining properties.</p>	<p>C1 The outbuilding is located within the building envelope or the rear setback.</p> <p>C2 Maximum height of the outbuilding is 3.6m <u>and the outbuilding is to be sited a minimum of 1.5m from the side and rear boundaries.</u></p>
<p>O2 To ensure that the required deep soil landscaped area and level area of private open space are achieved.</p>	<p>C3 The outbuilding, if located outside the building envelope, does not reduce the deep soil landscaped area and the private open space areas below the minimum required for development, as specified in Section 3.7.1 Landscaped areas and private open space.</p>

B3.8 Additional controls for development other than dwelling houses

This section includes additional controls for the following types of development:

- ▶ secondary dwellings;
- ▶ semi-detached dwellings;
- ▶ dual occupancies;
- ▶ attached dwellings;
- ▶ residential flat buildings and multi-dwelling housing;
- ▶ Inter-War flat buildings; and
- ▶ post-1950s residential towers.

These controls apply in addition to the controls in Sections B3.2-B3.7.

B3.8.1 Minimum lot width

The minimum lot width, as measured from the street frontage, is the minimum required to accommodate development on a site.

The controls below apply to detached dual occupancies, attached dwellings, residential flat buildings and multi dwelling housing, recognising that these forms of development require a minimum width to ensure that each dwelling in the development can be designed to provide reasonable amenity having regard to issues such as privacy, building separation and open space.

B3.8 Additional controls ▶ 3.8.1 Minimum lot width

Objectives	Controls
<p>O1 To ensure that sites have a minimum width to provide for the amenity of occupants and adjoining properties.</p>	<p>C1 The parent lot has a minimum width at the street front alignment as follows:</p> <ul style="list-style-type: none"> a) detached dual occupancy—21m; b) attached dwellings—24m; c) residential flat building or multi dwelling housing containing three dwellings—15m; and d) residential flat building or multi dwelling housing containing four or more dwellings—21m. <p>Notes:</p> <ul style="list-style-type: none"> a) No minimum lot width applies to a dwelling house, semi-detached dwelling or attached dual occupancy. b) The parent lot refers to the development site before any subdivision (if relevant). c) These controls do not apply to battle-axe lots (refer to Section B3.9).

B3.8.2 Secondary dwellings

Under Woollahra LEP 2014, secondary dwelling means a self-contained dwelling that:

- a) is established in conjunction with another dwelling (the principal dwelling);
- b) is on the same lot of land as the principal dwelling; and
- c) is located within, or is attached to, or is separate from, the principal dwelling.

Clause 5.4 of Woollahra LEP 2014 sets the maximum size of a secondary dwelling, being 60m², or not more than 5% of the total floor area of the principal dwelling.

B3.8 Additional controls for development other than dwelling houses

▶ 3.8.2 Secondary dwellings

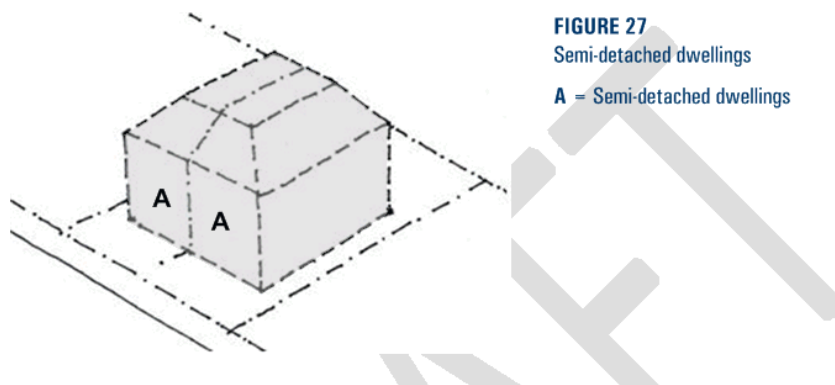
Objectives	Controls
O1 To ensure that amenity is provided to the occupants of the principal dwelling, secondary dwelling and to adjoining properties.	<p>C1 The secondary dwelling is located within the building envelope and is calculated in the footprint.</p> <p>Note: Only a secondary dwelling approved under the <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i> may be located outside the building envelope.</p> <p>C2 Both the principal and secondary dwellings have direct access to private open space.</p>

B3.8.3 Semi-detached dwellings

Under Woollahra LEP 2014, a semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling (refer to Figure 27).

This section includes controls relating to:

- ▶ new semi-detached dwelling development; and
- ▶ alterations and additions to existing semi-detached dwellings.



B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.3 Semi-detached dwellings	
Objectives	Controls
For new development	
O1 To encourage semi-detached dwellings to present as a uniform built form.	C1 Both dwellings in the development have an integrated design and are complementary to each other in terms of style, design, materials, roof form and colour scheme.
For alterations and additions to existing semi-detached development	
O2 To ensure that a proposal to redevelop one semi-detached dwelling in a pair does not adversely affect the development potential of the unaltered dwelling.	C2 Alterations and additions to one semi-detached dwelling in a pair do not unreasonably prevent the redevelopment of the remaining semi-detached dwelling at a later date.
	C3 Windows facing the common elevation between each semi-detached dwelling are avoided.
O3 To ensure that the original streetscape	C4 First floor additions are set back beyond

B3.8 Additional controls for development other than dwelling houses

▶ 3.8.3 *Semi-detached dwellings*

Objectives	Controls
<p>contribution and character of semi-detached dwellings is retained and enhanced.</p>	<p>the apex or main ridge of the existing principal roof form.</p> <p>C5 Existing chimneys are retained.</p> <p>C6 Dormers are not located in the street elevation of the building.</p> <p>C7 The key architectural elements of the original building are retained.</p>
<p>O4 To ensure that additions and alterations to one semi-detached dwelling respects the scale, detailing and characteristics of the pair.</p>	<p>C8 Alterations and additions to one of a pair of semi-detached dwellings does not dominate or compromise the uniformity or geometry of the principal or street front elevation.</p> <p>Where symmetry is the dominant characteristic it should be respected; where asymmetry gives the appearance of a single building this should be respectfully acknowledged in the design to maintain that character.</p> <p>C9 The style, pitch, material, profile and colour of the proposed roof form matches, complements and extends the existing roof form of the building. Uncharacteristic roof forms and details that detract from the character of the adjoining semi-detached dwelling are avoided.</p> <p>C10 Roof design does not adversely impact on the adjoining semi-detached dwelling or create stormwater spillover.</p> <p>C11 External colour schemes and materials are sympathetic to the character of the original building and the other semi-detached dwelling.</p>

B3.8.4 Dual occupancy

A dual occupancy means two dwellings on one lot of land (refer to Figure 28).

Under Woollahra LEP 2014, dual occupancies are defined as:

- ▶ **dual occupancy (attached)** means two dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.
- ▶ **dual occupancy (detached)** means two detached dwellings on one lot of land, but does not include a secondary dwelling.

Clause 4.1A of Woollahra LEP 2014 sets the minimum lot size of dual occupancies.

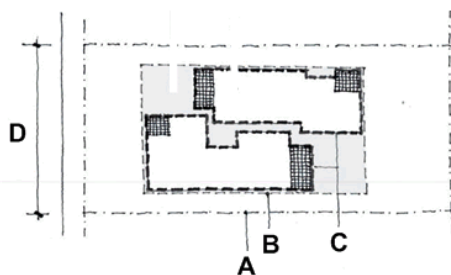


FIGURE 28
Example layout of detached dual occupancy within the building envelope
A = Lot boundary
B = Building envelope
C = Extent of building
D = 21m minimum frontage

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.4 Dual occupancy	
Objectives	Controls
O1 To ensure that the development presents as an integrated design.	C1 Both dwellings in the development complement each other in terms of style, design, materials, roof form and colour scheme.
O2 To ensure useable and well located areas of private open space.	C2 Private open space areas are not located within the front setback area.
	C3 Each dwelling has direct access to its own private open space area.
	C4 Private open space areas are not overlooked by the other dual occupancy dwelling in the development.

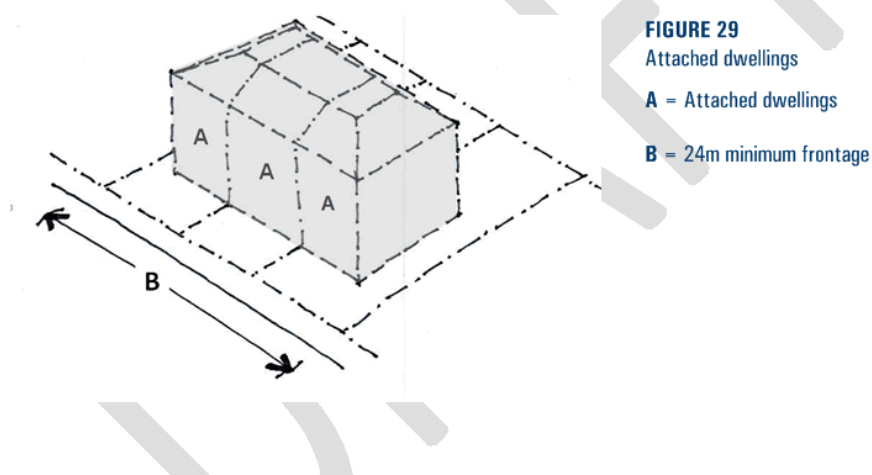
O3	To ensure that on-site parking does not detract from the streetscape character and amenity.	C5	Both dual occupancies share a common driveway cross-over. Separate cross overs may be considered on corner lots, where the access is from separate streets.
O4	To minimise loss of on-street parking.		

B3.8.5 Attached dwellings

Under Woollahra LEP 2014, attached dwelling means a building containing three or more dwellings, where:

- each dwelling is attached to another dwelling by a common wall;
- each of the dwellings is on its own lot of land; and
- none of the dwellings are located above any part of another dwelling.

Refer to Figure 29.



B3.8 Additional controls for development other than dwelling houses

3.8.5 Attached dwellings

Objectives	Controls
O1 To ensure that the development presents as an integrated design.	C1 All dwellings in the development complement each other in terms of style, design, materials, roof form and colour scheme.
O2 To ensure that on-site parking does not detract from the streetscape character	C2 If basement parking is not provided, at grade parking is located at the rear. Parking structures addressing the street

and amenity.

are not encouraged.

B3.8.6 Residential flat buildings and multi dwelling housing

Woollahra LEP 2014 defines the following types of residential accommodation:

- ▶ **residential flat building** means a building containing three or more dwellings, but does not include an attached dwelling or multi dwelling housing.
- ▶ **multi dwelling housing** means three or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

In addition to the DCP controls, the NSW Government's *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development* (SEPP 65) is also a mandatory consideration for all applications for residential flat buildings and multi dwelling housing that is three or more storeys and contains four or more self-contained dwellings.

SEPP 65 contains principles for good design and provides guidance for evaluating the merit of design solutions, and is supported by the Residential Flat Design Code. The Code contains detailed information about how development proposals can achieve the design quality principles in the SEPP, addressing matters such as building separation and building configuration.

Where SEPP 65 applies, the development application must be accompanied by a design verification from a qualified designer, confirming that:

- ▶ he or she designed, or directed the design, of the development; and
- ▶ the design quality principles set out in SEPP 65 are achieved for the development.

B3.8 Additional controls for development other than dwelling houses

▶ 3.8.6 Residential flat buildings and multi dwelling housing

Objectives	Controls
O1 To ensure that dwellings within the development provide good amenity.	C1 Internal layout and window placement achieves good natural ventilation.
	C2 Single aspect dwellings are limited in depth to 8m from a window.
	C3 The back of the kitchen is no more than 8m from a window.
	C4 The width of a cross-over or cross-through dwelling over 15m deep is 4m or greater. Deep and narrow dwelling layouts are avoided.
	C5 Where practical, habitable rooms excluding bedrooms are oriented to the

B3.8 Additional controls for development other than dwelling houses

▶ 3.8.6 Residential flat buildings and multi dwelling housing

Objectives	Controls
	<p>north for maximum solar access.</p> <p>C6 Light wells as the main source of lighting and ventilation to dwellings is avoided.</p>
<p>O2 To ensure useable and well located areas of private open space that provide good amenity for residents.</p>	<p>C7 Each dwelling has direct access to its own private open space area.</p> <p>C8 Private open space areas are located and designed to minimise overlooking from other dwellings in the development.</p> <p>Note: For requirements for adaptable housing in residential flat buildings and mixed use developments refer to Part E8 of the DCP.</p>

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B3.8.7 Inter-War flat buildings

Inter-War flat buildings were constructed in many parts of the Woollahra LGA. Many of these buildings make an important historic, aesthetic, social and technical contribution to the character of areas and to the historical development of the area.

Inter-War flat buildings are defined as two storeys or more and containing two or more dwellings, constructed in the period circa 1918 to circa 1950.

This definition includes years outside the recognised 'Inter-War period' of 1918 to 1939. This is to recognise a building type and not exclusively buildings constructed between certain years. This building type is distinguishable by common characteristics and styles. There are many examples of residential flat buildings with these characteristics that were constructed after 1939.

There are numerous cohesive groups and one-off examples that demonstrate the key characteristics of architectural styles of the Inter-War period including Art Deco, Mediterranean, Georgian Revival, Spanish Mission, Skyscraper Gothic and Functionalist. Many of the Inter-War flat buildings across the LGA were designed by prominent architects such as Leslie Wilkinson, Emil Sodersten, Aaron Bolot, Eric Clarke Pitt, John R. Brogan and Samuel Lipson.

Externally, many buildings and their settings are substantially intact. Modern day renovation trends that include rendering or bagging face brick, altering window patterns and enclosing balconies have detrimental impacts on the character of these buildings, particularly their aesthetic values, and also on the general streetscape.

Streetscape

The streetscape is the connection between the private and public domain. The character of the Inter-War flat building streetscapes is their consistency in architectural style, scale, form, front and side setbacks, finishes and materials. In streets characterised by Inter-War residential building development, the subdivision pattern and regular separation of buildings often provides public views to surrounding areas and landmarks.

Landscaped area

The landscaped garden setting is an important element of Inter-War flat buildings and contributes to the character of the building and its setting. The garden setting usually comprises perimeter planting in narrow strips along the front of the buildings and along the side boundary fences framing a small lawn area in front of the buildings.

Building form

The predominant plan form of principal buildings is of a stepped nature with bays, indents, verandahs, balconies and other elements to break up the mass of the building and in particular the street front elevation.

Highly characteristic detailing defines each style within the Inter-War period and contributes to the building's character. Each style can be characterised by the following elements:

- ▶ Art Deco: Face brickwork, vertical and horizontal brick fins, decorative stepped parapets, symmetry, three dimensional massing, geometric curves.

- ▶ Mediterranean: Rendered and lime washed walls, round or Marseille tiles, accents of classical detail such as round arches, timber shutter, ornate fine ironwork railings.
- ▶ Georgian Revival: Symmetry, fine face brickwork, 12 pane windows, repetitive fenestration, semi-circular headed windows, classical columns and pediments.
- ▶ Spanish Mission: Plain rendered or textured stucco with concentrations of ornament, gabled roofs with curved parapets, half-round terra cotta tiles, triple arch windows, 'barley-sugar' columns.
- ▶ Skyscraper Gothic: Medieval motifs, tall tower elements, vertical fins, stepped parapets.
- ▶ Functionalist: Asymmetrical massing of simple geometric shapes, steel-framed windows, contrasting horizontal and vertical motifs, large areas of glass.

Building height

The height of Inter-War flat buildings is generally consistent within the streetscape. The buildings are usually 2 or 3 storeys, but may be up to 10 or 12 storeys.

Materials

Materials characteristic of Inter-War flat buildings are:

- ▶ walls—brick, render/stucco;
- ▶ windows—timber double hung or casement; and
- ▶ roofs—glazed terracotta tile.

Alterations, additions and repairs

Alterations and additions to Inter-War flat buildings should have regard to the existing character of the building and its setting.

Where external elevations and internal common areas are intact, applicants are encouraged to confine alterations to internal areas of individual apartments.

Services and fire upgrades must be carefully planned and detailed. To avoid damage to characteristic internal and external details, repairs to building elements are to retain existing detailing and be equal to the original quality and design of material finishes, fixtures and fittings.

Roofscapes and chimneys

The roof is an important characteristic of Inter-War flat buildings and is generally a hipped or gabled form with a tiled roof structure and decorative parapet features. It contributes strongly to the overall form, proportions and character of the building.

Chimneys are an important characteristic of pre-1950 residential flat buildings and add to the character of the overall building form and area. For example, chimneys may relate to a centralised incinerator system, reflecting a previous technology that is of historic interest.

Dormer windows to the existing roof forms are inappropriate and out of character with Inter-War flat buildings and are intrusive in the roof form. Skylights are intrusive in roof forms and are restricted to areas that are not visibly prominent.

Fences, gates and mailboxes

The front fences of Inter-War flat buildings are usually low scale and constructed of masonry, often incorporating or repeating details used in the building. Gates are generally wrought iron with fine craftsmanship in a design appropriate to the character of the building, and also match external balcony balustrades.

Mailboxes are often timber in a masonry enclosure and located at or near the front fence, or within or near the main entrance to the building.

Ancillary structures

Ancillary structures for Inter-War flat buildings are those buildings that are not the principal building and include, but are not limited to: carports, garages, garbage areas and laundries.

External materials, details and finishes

External materials, details and finishes and the way they in which these are used are important elements that contribute to the overall character of a building. Face brickwork is a key characteristic of Inter-War flat buildings. The use of masonry patterns including two-tone brickwork, squints (corner bricks), textured bricks and herringbone brickwork can contribute to aesthetic value to an Inter-War flat building.

Verandahs and balconies

Existing verandahs and balconies are an important characteristic of Inter-War flat buildings, in addition to being functional and adding visual interest to the exterior by creating shadows. The addition of new balconies can have a highly negative visual impact on the character of the building. Where external elevations are intact and the building displays distinctive characteristic detailing, verandah additions should be limited to building elevations that are not highly visible from the street.

Security devices

In some cases the original door and window hardware does not provide the necessary level of security for contemporary requirements. Additional security devices can be provided sympathetically whilst retaining original hardware and the character of the building.

Fire protection upgrading

To comply with BCA and other requirements, it is sometimes necessary to upgrade the building with additional fire protection equipment or measures. Where characteristic internal and external detailing exists, fire protection upgrading should be sympathetically incorporated to minimise adverse impacts to original fabric and characteristic features of the building, such as doors and fireplaces.

Objectives and controls for alterations and additions to Inter-War flat buildings

Note: The controls below apply in addition to the general residential controls in this chapter. Where there is an inconsistency, the controls below take precedence.

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.7 Inter-War flat buildings	
Objectives	Controls
Streetscape	
O1 To ensure that the significant characteristics of Inter-War flat buildings, in regard to their presentation to the street, are retained and protected.	C1 For Inter-War flat buildings that are heritage items or located in a HCA— No alterations or additions to the significant and/or original forms, details, fabrics, materials or finishes of the principal building elevations, except for restoration or reconstruction.
O2 To conserve the principal street elevations of the Inter-War flat buildings that contribute to the character of the area.	C2 For Inter-War flat buildings that contribute to the character of the area, are not heritage items or located in a HCA— Alterations or additions to the significant forms, details, materials or finishes of the principal building elevations are sympathetic to the style and period of the building, and do not dominate the building.
O3 To ensure that the architectural character of Inter-War flat buildings that contribute to the character of the area is not compromised.	
	C3 The articulated, stepped and faceted plan form of the building is not altered or obscured, particularly at the street elevation.
O4 To ensure that the character of original roofscapes, including key elements such as chimneys, is maintained.	C4 Alterations and additions are no higher than the existing roof level, and generally retain the original roof form of the building.
O5 To ensure that alterations and additions to the roofs are discrete and do not detract from the original character, proportions or key elements.	C5 The roof maintains traditional roofing materials of the area, such as glazed terracotta tiles. Any replacement or repair matches the original roofing in type, profile, colour and materials. Concrete roofing tiles and corrugated metal roofing are not appropriate.
	C6 Dormer windows or skylights are not visually prominent from the public domain

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.7 Inter-War flat buildings	
Objectives	Controls
	<p>or the principal elevations of the building.</p> <p>C7 Skylights are flush with the roof surface.</p> <p>C8 Original chimneys and their details are retained.</p>
<p>O6 To conserve the established garden settings, including significant elements and features.</p>	<p>C9 Characteristic front gardens, and their elements, are retained with minimal alteration.</p> <p>C10 Structures are not erected in the front garden that detract from the feeling of openness, or restrict or impact on the principal elevations of the building (including secondary fences and hedges).</p> <p>C11 Structures erected in the front garden do not significantly reduce or compromise the landscaped area or key elements and features.</p>
<p>O7 To ensure that parking does not detract from the character of the streetscape.</p>	<p>C12 Car parking and garage structures are located at the rear, with access from the rear lane or side driveway.</p>
<p>O8 To ensure that external alterations, additions and repairs do not detract from the original character and form of the building.</p>	<p>C13 External alterations and additions do not impact on the overall form and character of the building, and are not visually prominent from the public domain.</p> <p>C14 External windows and doors are repaired or replaced to match the style, materials and finishes of the original building.</p> <p>C15 Privacy screens are discreet and do not impact on the overall character of the building, and are visible from the street.</p> <p>C16 Shade structures, including awnings and canopies, are not located on the principal building elevations.</p> <p>C17 Alterations to improve accessibility (including lifts, ramps and stairs) are sympathetically integrated with the original building and retain the original</p>

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.7 Inter-War flat buildings	
Objectives	Controls
	character and design of the building and landscape areas.
O9 To ensure that external materials, details and finishes respect and complement the original building.	<p>C18 Materials are similar in type and finish to those on the original building and sympathetically integrate with the fabric of the building.</p> <p>C19 Individual materials do not dominate the original materials of the building.</p> <p>C20 Original face brickwork is not painted, rendered or coated.</p> <p>C21 Windows are timber double hung or casement with the glazing pane size to be conserved and match the original windows.</p> <p>C22 Original leadlight, glass blocks, etched and patterned glazing are retained and conserved.</p>
O10 To ensure that works to balconies and verandahs do not detract from the character and form of Inter-War flat buildings.	<p>C23 Original verandas and balconies to the principal elevation of the building are not enclosed, glazed, or otherwise altered, except to reinstate original detailing.</p> <p>C24 New verandahs and balconies: <ul style="list-style-type: none"> a) respect the character of the existing building; and b) are sympathetically integrated with the character and form of the building. </p>
O11 To ensure that fences, gates and mailboxes are consistent with the character of Inter-War flat buildings.	<p>C25 Original fencing, gates and mailboxes are retained and conserved.</p> <p>C26 Fences to the front building alignment are a height of between 400mm and 900mm. The height, style, form, materials and finishes match the principal building and the streetscape.</p> <p>C27 Gates are constructed in a height, style,</p>

B3.8 Additional controls for development other than dwelling houses

▶ 3.8.7 Inter-War flat buildings

Objectives	Controls
	<p>form, materials and finishes to match the principal building and streetscape. Aluminium gates are avoided.</p> <p>C28 Fencing to side and rear boundaries is in the form of a timber paling fence.</p> <p>C29 Mailboxes are constructed in style, form, materials and finishes to match the principal building and streetscape.</p> <p>C30 Mailboxes are discreetly located and do not impact on the character of the building.</p>
<p>O12 To ensure that internal additions, alterations and repairs retain and respect internal common areas and significant internal character elements.</p>	<p>C31 Internal common areas and significant character elements are retained. This includes: entry doors, foyer areas and fittings, mailboxes, noticeboards, staircases, balustrades, carpets, wall details, light fittings, internal doors and the like.</p>
<p>O13 To ensure that the installation and maintenance of security devices does not detract from the character and form of Inter-War flat buildings.</p>	<p>C32 Original door and window hardware is retained, where practical. New additional security elements are in character with the building.</p> <p>C33 Security bars are: a) fitted internally; b) respect the existing glazing patterns; and c) painted in a dark recessive colour.</p> <p>C34 Security intercom systems are discreetly located and in a style and materials complimentary to the character of the building.</p> <p>C35 Alarm bell boxes and the like, are not attached to the principal building elevations.</p>
<p>O14 To ensure that additions and alterations</p>	<p>C36 New or upgraded services are discreetly</p>

B3.8 Additional controls for development other than dwelling houses

3.8.7 Inter-War flat buildings

Objectives	Controls
<p>for fire upgrading and safety are discrete, and retain and respect the original and significant building fabric.</p>	<p>and sensitively located to minimise visual impact.</p> <p>C37 New or upgraded services, such as rising mains and wiring, are located within existing ducts, behind cornices or bulkheads or within external lightwells that are not visually prominent.</p> <p>C38 Wiring or other services are housed in concealed conduits.</p> <p>C39 Original timber staircases are retained and smoke isolated, if necessary.</p> <p>C40 Where the height of the original stair balustrades is modified for fire safety—the modification is discreet and sympathetically integrated with the existing stair balustrade.</p> <p>C41 Stair treads applied to existing stairs are discrete.</p> <p>C42 New lifts are designed and located so that the addition:</p> <ul style="list-style-type: none"> a) is located outside the principal building form, if practical; and b) does not require significant alterations to existing common areas. <p>C43 Existing original external and internal doors and door hardware are retained and upgraded rather than replaced.</p> <p>C44 Existing original fanlights and other openings are retained and sealed from behind, if necessary.</p> <p>C45 Emergency and exit lighting is incorporated into existing original light fittings, where practical.</p> <p>C46 Smoke and/or thermal detectors are discreetly located and do not impact on decorative plaster cornices and ceilings.</p>

B3.8 Additional controls for development other than dwelling houses

▶ 3.8.7 Inter-War flat buildings

Objectives	Controls
<p>O15 To ensure that ancillary development does not detract from the style and character of Inter-War flat buildings and their settings.</p>	<p>C47 Ancillary development, such as garages and laundries, constructed at the same time as the building are retained. Any modifications are sympathetic to the original building.</p> <p>C48 New ancillary development:</p> <ul style="list-style-type: none"> a) is smaller in scale than the principal building; b) is not located between the principal building and the street front, and generally located at the rear behind the principal building; c) is constructed in a style, form, materials and finishes that match the principal building; d) is single storey with a maximum clear internal height of 2.4m; and e) is sympathetic in scale and style to traditional forms of ancillary structures.
<p>O16 To promote restoration and reconstruction works to restore significance.</p>	<p>C49 Unsympathetic additions and modifications to the building, and its grounds, are removed and replaced with sympathetic works, or reinstatement of original forms and matching fabric.</p>

B3.8.8 Post-1950s residential towers

The post-1950s residential towers are generally between 10 and 25 storeys high, and set on large sites with significant setbacks providing a garden setting to the street. These towers generally occur on the ridges of Darling Point and Point Piper and are visually prominent, particularly from Sydney Harbour.

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.8 Post-1950s residential towers	
Objectives	Controls
O1 To ensure that additions and alterations do not have an unsympathetic impact on the architectural style of the original building.	C1 Alterations and additions to post-1950s residential towers have regard to: a) their visual prominence; b) impacts on views from public spaces; c) impacts on view sharing from private properties; d) the architectural integrity of the existing building; and e) the materials and finishes of the existing building.
O2 To ensure that additions and alterations do not detract from the character of the area or have an unreasonable impact on surrounding properties.	

B3.8.9 Non-residential development

A number of non-residential land uses, such as child care centres, community facilities, educational establishments and places of public worship are permitted within the residential zones.

Where a non-residential use is proposed, the development must be compatible with the desired future character of the area in terms of building scale, location and design, and the impacts arising from the use must not unreasonably compromise residential amenity.

Notes:

- ▶ On-site parking rates and design requirements are in Part E of the DCP, Chapter E1 Parking and Access.
- ▶ Additional controls are in Part F of the DCP, Chapters F1 Child Care Centres and Chapter F2 Educational Establishments.

B3.8 Additional controls for development other than dwelling houses

▶ 3.8.9 Non-residential development

Objectives	Controls
<p>O1 To ensure that non-residential development is consistent with the desired future character of the area and does not have an unreasonable impact on surrounding properties</p>	<p>C1 The built form complies with the building envelope, footprint, excavation and built form and context controls in Sections B3.2-B3.4.</p> <p>Note: The minimum side setback for non-residential development is determined by the table in Figure 6 and is measured at 90 degrees to the side boundary (refer Figure 4).</p> <p>C2 The development is compatible with the streetscape and the desired future character of the street. For example, buildings in residential areas must maintain a scale consistent with the streetscape.</p> <p>Note: Chapters B1 and B2 in this Part of the DCP define the desired future character for each precinct, and identify any special heritage, streetscape character and key elements within each precinct.</p> <p>C3 Lighting, noise, hours of operation, and intensity of the use do not unreasonably impact on the residential amenity of adjoining properties, the street, or</p>

B3.8 Additional controls for development other than dwelling houses

▶ **3.8.9 Non-residential development**

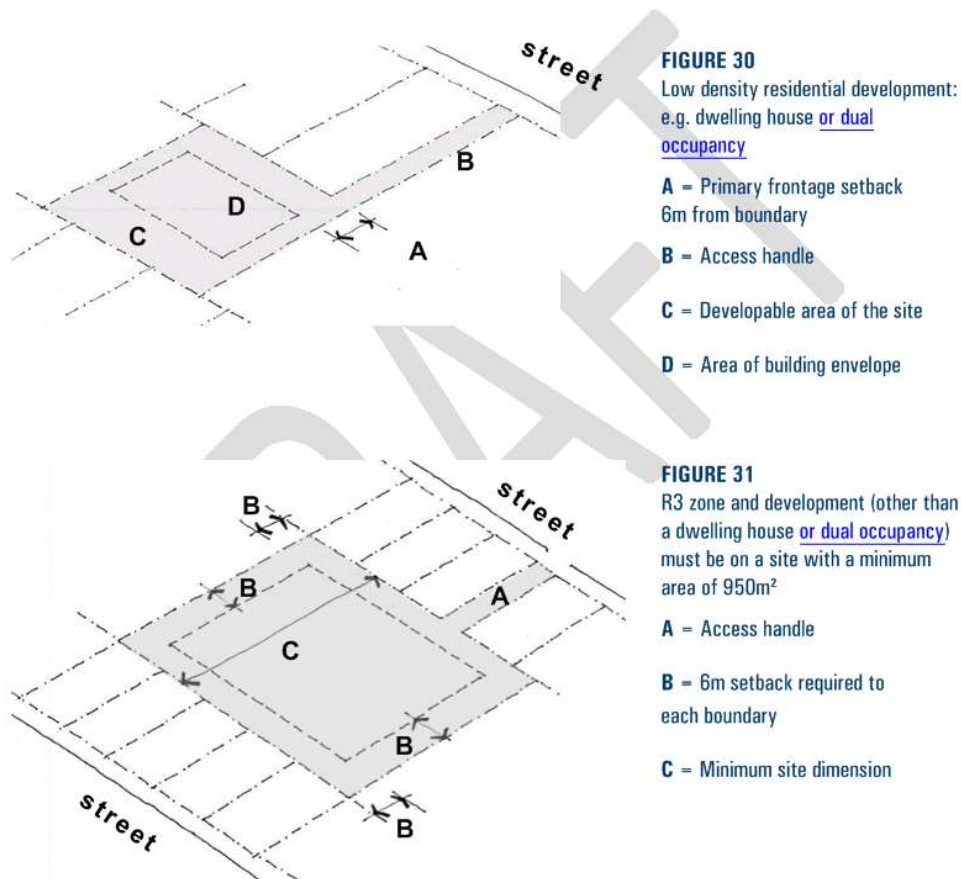
Objectives	Controls
	precinct.
	<p>C4 A management plan may be required to be submitted with the DA identifying the proposed uses on the site, and how the impacts of those uses will be managed and minimised. Matters that may need to be addressed in the management plan include:</p> <ul style="list-style-type: none"> a) pedestrian and vehicular access; b) parking and servicing; c) capacity; d) hours of operation; e) lighting; f) noise; and g) security and safety. <p>C5 For any non-residential development (including attached and detached garaging) the maximum volume of excavation permitted is no greater than the volume shown in Figure 14.</p>

B3.9 Additional controls for development on a battle-axe lot

A battle-axe lot is a lot that is connected to a road by an access handle. It does not have a street frontage, and directly adjoins other properties at all boundaries.

The controls below recognise that development on battle-axe lots needs to particularly consider the amenity of both the occupants and the adjoining properties, having regard to privacy, solar access, open space and the like.

Note, under Woollahra LEP 2014 the maximum height for development on a battle-axe lot is 9.5m.



B3.9 Additional controls for development on a battle-axe lot	
Objectives	Controls
<p>O1 To ensure that the battle-axe lot is of a size that can provide for the amenity of occupants and adjoining properties.</p>	<p>C1 For development (other than a dwelling house or dual occupancy) in the R3 Medium Density Residential Zone—the minimum lot size is 950m².</p> <p>C2 The lot, excluding the access handle, has minimum dimension in any direction, as follows:</p> <ul style="list-style-type: none"> a) for a detached dual occupancy—21m b) for development involving three or more dwellings—24m. <p>Note: The access handle of a battle-axe lot is included in calculating the lot size.</p>
<p>O2 To ensure adequate building separation to provide for the amenity of occupants and adjoining properties.</p>	<p>C3 For development in the R2 Low Density Residential Zone—a 6m setback applies to the primary frontage (refer to Figure 30).</p> <p>C3 A 6m setback applies to the primary frontage (refer to Figure 30) for:</p> <ul style="list-style-type: none"> a) development in the R2 Low Density Residential Zone. b) a dwelling house or dual occupancy in the R3 Medium Density Residential Zone. <p>Note:</p> <ul style="list-style-type: none"> a) the primary frontage is the boundary closest to the access handle leading to the street; and b) side and rear setbacks in Sections 3.2.3 and 3.2.4 apply. <p>C4 For development in the R3 Medium Density Residential Zone (other than a dwelling house or dual occupancy) a 6m setback applies to all boundaries (refer to Figure 31).</p> <p>A reduced setback may be considered where there is no unreasonable impact on the amenity of adjoining properties having regard to privacy, solar access, sense of enclosure and view sharing.</p>

B3.9 Additional controls for development on a battle-axe lot

Objectives	Controls
	<p data-bbox="858 434 1182 490">Note: A 7.2m wall height applies (refer to Sections 3.2.5).</p> <p data-bbox="799 510 1230 566">C5 Notwithstanding C3, a setback of 12m applies to:</p> <ul style="list-style-type: none"> <li data-bbox="858 586 1278 840">a) land at 327, 327C, 327D, 337, and 337A, Edgecliff Road (being Lot 4 DP 320118, Lot 1 DP 566991, Lot X DP 101456, Lot C DP 323192, and Lot 12 DP 851270,) and 14, 20, and 22 Roslyndale Avenue (being Lot 101 DP 738428, Lot 6 DP 9477 and Lot 7 DP 9477) along the eastern most boundary that directly adjoins R2 zoned land; and <li data-bbox="858 857 1278 965">b) land at 345 Edgecliff Road (Lot E DP 331031) along the southern most boundary that directly adjoins R2 zoned land. <p data-bbox="858 983 1209 1039">Note: The 6m setback applies to all other boundaries.</p>

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B3.9 Additional controls for development on a battle-axe lot	
Objectives	Controls
O3 To ensure that development does not unreasonably affect adjoining properties in terms of privacy and sense of enclosure.	<p>C6 Primary living areas, such as a living room, lounge room, kitchen and dining room, are located on the ground floor. Habitable rooms other than bedrooms, on the upper floors will only be considered where there is:</p> <ul style="list-style-type: none"> a) no unreasonable impact on the privacy of adjoining properties; and b) no overlooking into the private open space areas of adjoining properties. <p>C7 In the R2 zone, where habitable rooms other than bedrooms are located on the upper floor, the windows to these rooms are setback at least 4.5m from any boundary.</p> <p>C8 Balconies, decks and the like, on the upper floors will only be considered where there is:</p> <ul style="list-style-type: none"> a) no unreasonable impact on the privacy of adjoining properties; and b) no overlooking into the private open space areas of adjoining properties.

B3.10 Additional controls for development in sensitive locations

B3.10.1 Development on land adjoining public open space

This section applies to land that directly adjoins land zoned RE1 Public Recreation, E1 National Parks and Nature Reserves, and E2 Environmental Conservation.

Parks, reserves and other public open space areas contribute significantly to the amenity and well-being of the community.

Many of these areas are close to the harbour foreshore and provide an important contribution to scenic quality. Some of these parks and reserves contain remnant vegetation and ecological communities worthy of protection.

Development, including landscaping, on private property adjoining public open space areas needs to consider its relationship to the public land and be sensitively managed to minimise potential impacts on the amenity of these public open space areas.

B3.10 Additional controls for development in sensitive locations

▶ 3.10.1 Development on land adjoining public open space

Objectives	Controls
<p>O1 To ensure that development on land adjoining public open space areas does not compromise the public use or amenity of the land.</p>	<p>C1 Development does not conflict with any plan of management applying to public land.</p> <p>C2 Development does not have an unreasonable impact on the public open space area in terms of:</p> <ul style="list-style-type: none"> a) overshadowing; b) scale or sense of enclosure; and c) loss of significant views. <p>C3 Fencing and landscaping along any common boundary makes a positive contribution to the public open space area.</p>
<p>O2 To improve opportunities for passive surveillance into public open space areas.</p>	<p>C4 Where practical, the building is designed to have an outlook to the adjoining public open space area.</p>

B3.10 Additional controls for development in sensitive locations

▶ 3.10.1 Development on land adjoining public open space

Objectives		Controls	
O3	To protect and enhance public access to public open spaces.	C5	Development does not reduce existing public access to public open space areas. When possible, development increases opportunities for public access.
O4	To ensure that development does not have an adverse impact on the ecology of adjoining parks, reserves or other public open space areas.	C6	A gate or the like, providing direct access from a private property to the public park or reserve opens inward toward the private property and does not encroach on public land.
O5	To ensure that development adjoining open space provides for a continuation and support of native vegetation and habitat areas.	C7	For new plantings, 90% of the plants in the landscape design are native species. However, where the land adjoins bushland to which <i>State Environmental Planning Policy No 19—Bushland in Urban Areas</i> applies, 100% of the plants are locally occurring native species.
O6	To ensure that development does not impact on the environmental processes of the public land, such as soil erosion, siltation, and the like.	C8	Landscaping provides a diversity of native species and a complexity of habitat through vertical layering. Note: Refer to the DA Guide for suggested vegetation species.

B3.10.2 Harbour foreshore development

Sydney Harbour is an outstanding natural and public asset of national significance with unique environmental qualities that are world renowned. Woollahra Council has a shared responsibility with the State government and other councils with harbour foreshore land to ensure its protection for existing and future generations.

In 2005 the State Government introduced the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (Harbour REP) to provide clear planning framework and better environmental outcomes for Sydney Harbour. The Harbour REP applies not only to the waterways and foreshores of the harbour, but to the wider hydrological catchment.

The provisions in this part of the DCP supplement the Harbour SREP, and particularly address scenic and environmental protection issues. These DCP provisions apply to:

- ▶ land that has a boundary to the Sydney Harbour foreshore;
- ▶ land adjoining the Sydney Harbour foreshore which is zoned E1 National Parks and Nature Reserves or RE1 Public Recreation; and
- ▶ any land visible from Sydney Harbour.

Scenic protection

The appearance of development when viewed from Sydney Harbour is an important consideration for development.

Scenic protection is not just relevant to land immediately adjacent to the foreshore, but applies to development on any land that is visible from Sydney Harbour. This is because building form, scale, materials and vegetation cover of development located along the slopes and ridgelines visible from the harbour are also important in contributing to, and protecting, the harbour's scenic qualities.

Ecological communities and protection of the natural foreshore

The harbour foreshore supports a vast array of flora and fauna communities. It is important to minimise the impact of development to preserve natural ecosystems and protect the natural foreshore character.

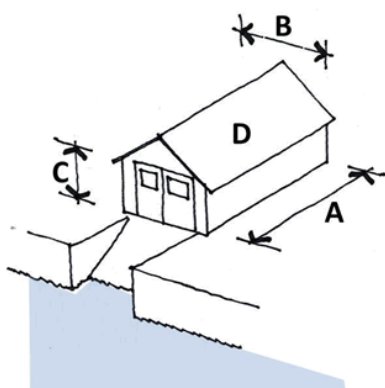


FIGURE 32
Design considerations for boat sheds

- A = Maximum length 5m
- B = Maximum width 3.7m
- C = Maximum wall height 2.5m
- D = Minimum roof pitch 30°

B3.10 Additional controls for development in sensitive locations

3.10.2 Harbour foreshore development

Objectives	Controls
O1 To protect the scenic quality of the natural landscape and built environment, particularly as viewed from Sydney Harbour.	C1 Development as viewed from Sydney Harbour follows the natural topography and maintains or enhances vegetation cover.
	C2 Roofs are below the tree canopy and maintain the prominence of the treed skyline.
	C3 Development as viewed from Sydney Harbour, is designed and constructed to blend with the natural landscape setting and the existing built environment through the use of materials, colours, wall articulation, building form and landscaping. Glass elevations and excessive use of windows resulting in reflectivity and glare are avoided.
	C4 Pergolas, boatsheds, other outbuildings and structures are designed and constructed to complement the overall appearance of the development. Such structures are no more than one storey in height.
	C5 Swimming pools and spa pools are not elevated more than 1.2m above ground level and complement the character of the harbour and foreshore.
	C6 Swimming pool and spa pool walls are suitably

B3.10 Additional controls for development in sensitive locations

▶ 3.10.2 Harbour foreshore development

Objectives	Controls
	treated to complement the natural foreshore, and where visible, are sandstone clad and incorporate suitable screen landscaping.
	C7 The boatshed is designed to directly relate to the water, with openings and access facing the water.
	C8 Boatsheds are used solely for the storage and/or maintenance of boats.
	C9 Boatsheds have maximum plan dimension of 6m x 3.7m. Boatsheds are sited so that the minimum dimension fronts the harbour (refer to Figure 32).
	C10 Boatsheds incorporate gable pitched roofs with a minimum pitch of 30°. The use of roofs as sundecks, patios or the like is not permitted (refer to Figure 32).
	C11 Boatsheds are single storey and have a maximum wall height of 2.5m (refer to Figure 32).
	C12 Boatsheds are constructed of stone or timber. Excessive use of glazing is avoided.
	C13 Jetties are constructed of hardwood, are of minimum size and are designed to be as unobtrusive as possible. The sharing of jetties between properties is encouraged and, where possible, jetties are constructed on common boundaries to limit the proliferation of structures along the foreshore.

B3.10 Additional controls for development in sensitive locations	
▶ 3.10.2 Harbour foreshore development	
Objectives	Controls
<p>O2 To minimise impacts on natural coastal processes, including sea level rises and flooding.</p>	<p>C14 Boundary fences are not permitted within 8m of the mean high water mark.</p> <p>C15 Within the foreshore area:</p> <ul style="list-style-type: none"> a) fences are not more than 1.5m in height above the existing ground level, and are constructed of open weave materials (such as wire or lattice to enable vines, creepers or hedges) to provide natural cover; b) boundary planting is not higher than 1.5m when fully mature; and c) hard surfaces and artificial surfaces, such as paving, are minimised and generally limited to swimming pool surrounds or modest walkways between the residential building and foreshore structures, such as swimming pools or boat ramps. <p>Note: Foreshore area means the land in foreshore area 12 and 30 in Woollahra LEP 2014.</p>
<p>O3 To protect natural habitats and minimise disturbance on ecological communities.</p>	<p>C16 Development on foreshore properties maintains or reduces current levels of site stormwater or sediment run-off entering the harbour.</p> <p>C17 Development is not located within seagrass communities and avoids shading of seagrass communities.</p> <p>C18 Development and construction does not disturb seabed contaminants.</p> <p>C19 The existing tree canopy is maintained or enhanced.</p>

B3.10 Additional controls for development in sensitive locations

▶ 3.10.2 Harbour foreshore development

Objectives	Controls
<p>O4 To reinforce the natural character of the foreshore and limit disturbance to the natural land and water interface.</p>	<p>C20 Development on foreshore properties does not significantly alter the topography and preserves natural foreshore features including cliffs, rock outcrops, rock shelves and beaches.</p> <p>C21 Seawalls or retaining walls are not permitted in areas where the foreshore is in its natural state.</p> <p>C22 Where seawalls or retaining walls are permitted, these are:</p> <ul style="list-style-type: none"> a) constructed of coarse, rock-faced stone or with stone facing (preferably sandstone); b) no more than 1m above the mean high water mark; and c) be designed and built to improve the environmental value of seawalls and seawall-lined foreshores (refer to Environmentally Friendly Seawalls: A Guide to Improving the Environmental Value of Seawalls and Seawall-lined Foreshores in Estuaries, published by the Department of Environment and Climate Change NSW on behalf of Sydney Metropolitan Catchment Management Authority). <p>C23 Slipways and stairs are designed and constructed to closely conform to the character of the natural foreshore.</p>

Woollahra Municipal Council
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Annexure 2

19 October 2015

Item No: R1 Recommendation to Council
Subject: **PROGRESS REPORT ON THE WOOLLAHRA DCP 2015
WORKING PARTY MEETINGS**
Author: Tom Jones, Urban Design Planner
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 15/145726
Reason for Report: To provide a progress report on the meetings of the working party established to review Chapter B3 of the Woollahra DCP 2015.

Recommendation:

THAT Council receive and note the report in relation to the meetings of the working party established to review Chapter B3 of the Woollahra DCP 2015.

1. Background

Council, on 27 April 2015, resolved:

- A. *That the Woollahra Development Control Plan 2015 (version dated 13 April 2015) be adopted by Council, subject to the following:*
 - (i) to (xvi)
- B. *That Council establish a working party to review Chapter B3 General Development Controls, in particular controls relating to building bulk, scale, envelope, floorplates, setbacks and site excavation, and any other DCP controls that the working party believe are necessary to review and amend to enable a high level of architectural quality, built form and environmental amenity to be achieved within the municipality; and*
 - (i) *The Working Party include representatives from design and planning organisation practicing in the municipality as appointed by the Mayor;*
 - (ii) *Council staff regularly report on the progress and any recommendations from the Working Party to the Urban Planning Committee.*
 - (iii) *The review and recommendations of the Working Party be reported to the Urban Planning Committee within four (4) months from the date that the Development Control Plan comes into effect.*
- C. *That the working party referred to in B above also consider and review the minimum lot widths for:*
 - (i) *Detached dual occupancies;*
 - (ii) *Attached dwellings and*
 - (iii) *Residential flat buildings or multi dwelling housing containing four or more dwellings, in conjunction with the relevant minimum lot size controls in the Woollahra Local Environmental Plan 2014.*

On 3 August 2015, Council adopted the following notice of motion:

THAT the working party which will be established in response to Council's resolution of 27 April 2015 also consider the merit of changing the maximum residential car parking standards contained in chapter E1.4.2 of the Woollahra Development Control Plan 2015 to

minimum standards and also consider if the excavation controls contained in chapter B3.4 of the DCP should be changed to accommodate this change.

2. Establishment of the working party

The Mayor, Councillor Zeltzer, in accordance with part B(i) of the resolution of 27 April 2015, appointed the following people to the working party:

Chair:	Cr Ted Bennett
Councillor:	Cr James Keulemans
Architects:	Chris Howe Bruce Stafford Alec Tzannes
Planners:	George Karavanas (Gary Shiels and Associates)
Independent:	Rod Simpson, architect/urban designer, (Sydney University)

2. Progress overview

The working party has held meetings on 15 September 2015 and 13 October 2015. Both meetings were at the Council Chambers and chaired by Councillor Ted Bennett.

The first meeting was attended by four practitioners, four staff and two Councillors. The second meeting was attended by three practitioners, five members of staff, a councillor and an independent expert. The minutes of the meetings are attached (**Annexure 1 and Annexure 2**). The second meeting minutes have not been adopted by the working party.

At the first meeting the working party discussed a range of matters that fell into three categories:

1. The overall approach to the controls – the appropriateness of using the same set of building envelope controls for a large part of the municipality in which there are different natural and built conditions.
2. The maximum floorplate control - the merit of using a maximum floorplate control of 165% compared with the previous floor space ratio controls.
3. Excavation – the stringency of the excavation controls and the potential to allow more flexibility.

The second meeting focussed on the practical application of the building envelope and excavation controls. Presentations illustrated by examples of approved and constructed buildings were made by the practitioners and Council staff.

Although progress has been made with the review of chapter B3, the working party is not in a position to make any specific recommendations at present. The working party is still to discuss certain aspects of the issues raised in parts B and C of the Council's decision.

It was agreed that the next meeting, to be held on 5 November, will discuss options for a preferred set of controls.

3. Conclusion:

The working party has identified a range of matters which have been informed by the practical use of the new building envelope controls by Council planners and external professionals. Comparison with the previous set of controls has formed part of the review process.

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19 October 2015

The working party will continue to examine the controls as required by the Council's decision. All suggested changes will need to be rigorously tested before firm recommendations are made to the Council.

Annexures

1. Building Envelope Controls - Workshop 1 - 15 September 2015 - Minutes
2. Building Envelope Controls - Workshop 2 - 13 October 2015 - Minutes

MINUTES

DCP2015 CHAPTER B3 REVIEW WORKING PARTY WORKSHOP 1

15 September 2015
(Meeting commenced 4pm)

<p>Attendees: Bruce Stafford George Karavanas Chris Howe Alec Tzannes</p> <p>Apologies: Rod Simpson</p>	<p>Councillors: Cr Ted Bennett Cr James Keulemans</p> <p>Council Staff: Allan Coker Chris Bluett Anne White Tom Jones</p>
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Issues raised	Action/Response
Overall approach	
1. Practitioner group consists of 76 consultants, who should be kept informed of the progress.	<ul style="list-style-type: none"> CH to circulate notes from this and other workshops to practitioners.
2. Not appropriate to have the same building envelope controls for the whole LGA as the context is very different.	<ul style="list-style-type: none"> Practitioners to provide examples of how the new controls work in different areas.
3. Concerns regarding how the new controls apply to alterations and additions.	<ul style="list-style-type: none"> Practitioners to provide examples.
Maximum floorplate: 165%	
4. Query merit of 165% control (a hidden FSR control), which can conflict with the building envelope.	<ul style="list-style-type: none"> Council staff to identify exemplar dwellings, and identify how these would compare to the new controls.
5. Building envelopes are more appropriate than an FSR control.	
6. 165% penalises flat sites, which cannot benefit as a sloping site.	<ul style="list-style-type: none"> Staff to consider
7. Query whether the formula works on smaller sites.	<ul style="list-style-type: none"> Practitioners to provide examples of how the new controls work on small sites.
8. Reintroduce FSR control – provides more certainty and can be tailored for localities	<ul style="list-style-type: none"> Noted

9. The term "levels" should be defined more clearly to assist with interpretation of 165%.	<ul style="list-style-type: none"> Staff to consider
Excavation	
10. Concerns regarding the controls minimising excavation, when additional excavation can create more sustainable outcomes.	<ul style="list-style-type: none"> Practitioners to provide examples of large scale excavation creating more sustainable outcomes.
11. Controls regarding excavation should be more flexible to allow zero side setbacks, providing these can be independently verified by engineers.	<ul style="list-style-type: none"> Practitioners to provide exemplar examples of how excavation is managed when close to adjoining boundaries. Staff to consider how excavation is managed after development approval is given, and within statutory framework.
12. Potential excavation impacts can be negotiated between landowners.	<ul style="list-style-type: none"> Council is required to consider environmental impacts at DA assessment stage.
<ul style="list-style-type: none"> Next meeting – 13 October at 4pm 	<ul style="list-style-type: none"> Practitioners to circulate examples prior to the meeting.

MINUTES Draft

DCP2015 CHAPTER B3 REVIEW WORKING PARTY WORKSHOP 2

13 October 2015
(Meeting commenced 4pm)

<p>Attendees: George Karavanas GK Chris Howe CH Alec Tzannes AT Rod Simpson RS</p> <p>Apologies: Cr James Keulemans Bruce Stafford</p>	<p>Councillors: Cr Ted Bennett Cr TB</p> <p>Council Staff: Allan Coker AC Chris Bluett CB Tom Jones TJ Jorge Alvarez JA Brendan Metcalfe BM Kira Green KG</p>
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Power point presentations	Action/Comments
<p>Presentation of examples George Karavanas</p>	
<p>1. GK presented 106 Wolseley Road, Point Piper. This waterfront house was non-compliant with the WLEP 1995 FSR controls. The building is the subject of an alteration and addition DA. GK was concerned by the lack of flexibility regarding the new controls feeling that the site context would support a greater building bulk.</p>	<ul style="list-style-type: none"> • AC asked if GK could isolate the particular issue regarding the current control set. • AT pointed out that this suggested that different yields are appropriate in different locations.
<p>2. GK presents 1 Clairvaux Road, Vaucluse. A large site being subdivided and redeveloped. Building envelopes for the sites are illustrated. Because it is a corner site there is concern as to which street is the front. There is a concern that the location of the front setback impacts on the site yield.</p>	<ul style="list-style-type: none"> • RS so we are discussing the definition of the front setback. • GK comments that you almost need to design the building before you can determine the yield.

Alec Tzannes	
3. AT shows the Nursey residence in Paddington. Significant excavation from boundary to boundary. Can be achieved with security regarding structural stability of adjoining properties and significant sustainability returns. This is an infill building crossing a watercourse in the Paddington conservation area. The site is small. Building envelopes are more appropriate than an FSR control.	•
4. AT illustrates a large residential property with attached tennis court which has been extensively excavated into sand. The site appears to be almost totally developed and have minimal deep soil.	<ul style="list-style-type: none"> • AT I am risk adverse, what I am suggesting is that buildings are required to meet strict requirements. If land is used efficiently developed and the building well designed it is less likely to have a short life span or to fail.
5. AT illustrates a number of other projects including St Catherine's School.	<ul style="list-style-type: none"> • RS if zero impact on amenity and context why not allow more excavation. But let's put this excavation discussion aside for the present and look at the building envelope. • AT I am addressing point 10 in the minutes. There are companies that produce the energy credentials of a building across their total life cycle. • CB we can look at the issues but cannot mandate beyond BASIX. • AT Awarded building could not be built under the current controls. Is that a good outcome? The hidden cost of compliance is lost opportunities. • AC The controls cannot fix existing problems. Council have effectively thrown away the FSR controls on Wolseley Road.
Nick Economou/Tom Jones	
Exemplar examples provided by assessment team	
6. 25 Wentworth Avenue, Vaucluse is built on a very steep triangular site on the edge of a gully. Challenging site to produce a definitive envelope.	<ul style="list-style-type: none"> • NE 0.74:1 as approved • TJ The BECs produce a yield that is appropriate to the site
7. 29 Vaucluse Road site sits up above the road but is splayed at front	<ul style="list-style-type: none"> • TJ Odd site shape would distort the FSR that would apply. Complex to calculate buildable area. • NE concern that the envelope does not reflect the rear setback of adjoining properties. • GK the FSR was in the high 7s

<p>8. 108 Wolseley Road is on a site where there is a battle axe lot beyond which truncates the site. The building on the site sits outside the envelope and is on three storeys.</p>	<ul style="list-style-type: none"> • TK The building occupies the envelope and more. • AC In a contextual sense is the result a good outcome? • GK Yes. • AC In this location the FSR had effectively been thrown out. • TJ The FSR is over 1.0:1
<p>9. Summary of issues raised</p> <ul style="list-style-type: none"> • Building envelope relates to site size • Unfamiliar control vocabulary • Floorplate control is quasi FSR • Yield dependent on precise calculations • Site shape can affect yield • Building depth may disrupt established rear setback pattern • Increased assessment time • Difficult for applicants and staff • Assessment staff not confident with control set 	<ul style="list-style-type: none"> • CH the issue raised at the last meeting was, should the same FSR apply across the Municipality. • AC we need to come back to that question. • Regard the total floor plate which is a quasi FSR there is concern that in court this control could be considered invalid since it is not in the LEP. • AC we are also concerned that the envelope controls will increase assessment time. • AC we need to get practitioners thoughts and all the issues on the table. • CH I totally agree with the summary. Important that the wider community can understand the controls.
<p>10. General discussion</p>	<ul style="list-style-type: none"> • Cr TB the question is agreed what is the answer though? • CH Council to come back to next meeting with options Strategic planning are the people who should be doing this. • RS The Council controls are trying to be as contextual as possible. There is a pressure between applying generalised controls to complex urban areas. The Standard Instrument in my opinion is at odds with contextualism. This also goes to the effect of excavation which we will return to. • GK FSR is easy, is it the right way? Probably not, what if we just fill the envelope? • CH I am not suggesting we abandon envelopes.

<p>11. What next?</p>	<ul style="list-style-type: none"> • AC Between now and the next meeting we will develop the options. • Cr TB can we have input from the practitioners as well. • CH Looked at difficulties of irregular sites. Haven't taken the standard rectangular sites, look at the more regular sites as well. I'd like to suggest if we could have at the next meeting some regular sites (5 or 6) that we could look at. Solar access and views. Orientated north/south and east/west. • AT can you restate your principle objectives for the controls. I don't consider the controls to be too complex. • AC we want a control set that produces good results on the ground but is also easy to work with • CH Both council and practitioners should provide exemplar examples. • AT A plea that Council requires the applicant to demonstrate through due process the case for a development. This way the controls could provide both opportunity and responsibility for the applicant.
<p><i>Meeting closed 6.05pm</i></p>	
<ul style="list-style-type: none"> • Next meeting - Thursday 5 November at 4pm 	<ul style="list-style-type: none"> • Practitioners to circulate examples prior to the meeting.

Woollahra Municipal Council
Urban Planning Committee Agenda

Annexure 3

29 February 2016

Item No: R2 Recommendation to Council
Subject: **SECOND PROGRESS REPORT ON THE WOOLLAHRA DCP 2015 WORKING PARTY MEETINGS**
Author: Anne White, Acting Team Leader - Strategic Planning
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 16/19583
Reason for Report: To provide a progress report on the latest meetings of the working party established to review Chapter B3 General Development Controls of the Woollahra DCP 2015.

Recommendation

THAT the overview of the Woollahra DCP 2015 Working Party meetings held on 5 November 2015 and 3 February 2016 is received and noted.

1. Background

On 27 April 2015, Council resolved the following:

- A. *That the Woollahra Development Control Plan 2015 (version dated 13 April 2015) be adopted by Council, subject to the following:*
- (i) *to (xvi)*
- B. *That Council establish a working party to review Chapter B3 General Development Controls, in particular controls relating to building bulk, scale, envelope, floorplates, setbacks and site excavation, and any other DCP controls that the working party believe are necessary to review and amend to enable a high level of architectural quality, built form and environmental amenity to be achieved within the municipality; and*
- (i) *The Working Party include representatives from design and planning organisation practicing in the municipality as appointed by the Mayor;*
 - (ii) *Council staff regularly report on the progress and any recommendations from the Working Party to the Urban Planning Committee.*
 - (iii) *The review and recommendations of the Working Party be reported to the Urban Planning Committee within four (4) months from the date that the Development Control Plan comes into effect.*
- C. *That the working party referred to in B above also consider and review the minimum lot widths for:*
- *Detached dual occupancies;*
 - *Attached dwellings and*
 - *Residential flat buildings or multi dwelling housing containing four or more dwellings, in conjunction with the relevant minimum lot size controls in the Woollahra Local Environmental Plan 2014.*

In response, a working party was established to review Chapter B3 General Development Controls in the Woollahra Development Control Plan 2015 (Woollahra DCP 2015). An overview of the first two meetings (held on 15 September 2015 and 13 October 2015) was reported to the Urban Planning Committee on 19 October 2015 (see **Annexure 1**). In summary, at these meetings the following themes were discussed:

Workshop Meeting	Theme
1. 15 September 2015	Discussions regarding a range of concerns with the existing controls in Chapter B3 including: <ul style="list-style-type: none"> • Overall approach and appropriateness of the controls • Concerns using the floorplate control • Concerns regarding the stringency of the excavation controls.
2. 13 October 2015	<ul style="list-style-type: none"> • The practical application of the building envelope and excavation controls. • Presentations were made by both practitioners and staff on the complexities of applying the controls.

2. Progress overview

The third working party meeting was held on 5 November 2015 and was attended by three practitioners, one Councillor, an independent expert and six members of staff. The minutes of this meeting are attached (**Annexure 2**).

At this meeting the discussion focused on the practitioners concerns with the use of the floorplate control. The floorplate control applies to dwelling houses, semi-detached dwellings and dual occupancies, and is used instead of a floor space ratio control. In response to the practitioner concerns, Council officers presented three potential control sets. The three options and the responses from the working party are identified in the table below.

Option	Working party response
<ul style="list-style-type: none"> • Option 1: Retain existing control set (including the floorplate control) 	There was no support from either staff or practitioners to retain the floorplate control.
<ul style="list-style-type: none"> • Option 2: Delete floorplate control and replace with a floor space ratio control • Insert floor space ratio control in the Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014) • Retain the building envelope in the Woollahra DCP 2015 	There was some support from the practitioners to insert an FSR control to control building bulk. However, the practitioners requested that if an FSR control is introduced, it should be varied based on precinct character.
<ul style="list-style-type: none"> • Option 3: Delete floorplate and investigate alternative controls • Delete floorplate control and replace with alternative controls in Woollahra DCP 2015 • Retain the building envelope in the Woollahra DCP 2015 	Overall the practitioners identified this option as the preferred approach. The practitioners requested staff to further investigate this option, and identify the potential “alternative” controls.

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The fourth working party meeting was held on 3 February 2016 and was attended by four practitioners, an independent expert and six members of staff. The minutes of this meeting are attached (**Annexure 3**).

In the course of investigating **Option 3**, Council officers researched the controls used in other Sydney metropolitan Councils. As a consequence of this research, it was noted that the majority of Councils use FSR to control building bulk for all types of residential accommodation. In particular, staff identified that both Randwick and Waverley Council use FSR in the R2 Low Density Residential zones. Both Councils use a floor space ratio control of 0.5:1 in their local environmental plans. A summary of this research was presented to the working party.

In order to progress **Option 3**, staff proposed deleting the floorplate control and replacing it with a site coverage control in the Woollahra DCP 2015. This approach is already used in other Council's such as North Sydney. A site coverage control is expressed as a percentage of the site area. Site coverage is defined in the standard instrument as:

Site coverage means the proportion of a site covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- a) *Any basement*
- b) *Any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,*
- c) *Any eaves,*
- d) *Unenclosed balconies, decks, pergolas and the like.*

In response to staff's presentation, and consistent with the approach used by both Randwick and Waverley Council, there was overall support for further investigating the use of an FSR control in the Woollahra LEP 2014. However, the working party is seeking an urgent amendment to the control set to address their concerns. Due to the complexities of amending the LEP, the insertion of a floor space ratio control could take six to 12 months to implement. Therefore, the working party recommended further investigation and refinement of **Option 3** by inserting a site coverage control into the DCP as a short term solution. This can pre-empt the future introduction of a floor space ratio control in the Woollahra LEP 2014.

It was agreed that at the next meeting on 2 March 2016, the working party will discuss the refinement of the site coverage approach. It was also agreed that staff would present a response to the practitioner's concerns with the stringency of the excavation controls. This response will take into account the following action from the *Delivery Program 2013-2017 and Operational Plan 2015/16* (DPOP):

- 4.1.1.18: Review Residential DCP 2015 car parking standards to consider changing maximum rates to minimum rates; in conjunction, consider the need to change excavation controls to accommodate minimum rates (NOM 10 August 2015).

At a future meeting of the working party, staff will present a response to the following DPOP action:

- 4.1.1.20..... Review minimum lot widths for various types of residential buildings

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3. Conclusion

The working party has continued to review the approach to the building envelope controls, and has identified a potential solution to replace the floorplate control. Comparison with controls used in other Councils has formed part of this review process, in particular the approach to controlling building bulk by Randwick and Waverley Council. However, further consideration and testing is required before a final recommendation of the preferred approach is identified.

Annexures

1. Report to the UPC meeting of 19 October 2015
2. Minutes of the Working Party meeting held on 5 November 2015
3. Minutes of the Working Party meeting held on 3 February 2016

Item No: R1 Recommendation to Council
Subject: **PROGRESS REPORT ON THE WOOLLAHRA DCP 2015
WORKING PARTY MEETINGS**
Author: Tom Jones, Urban Design Planner
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 15/145726
Reason for Report: To provide a progress report on the meetings of the working party established to review Chapter B3 of the Woollahra DCP 2015.

Recommendation:

That Council receive and note the report in relation to the meetings of the working party established to review Chapter B3 of the Woollahra DCP 2015.

I. Background

Council, on 27 April 2015, resolved:

- A. That the Woollahra Development Control Plan 2015 (version dated 13 April 2015) be adopted by Council, subject to the following:
 - (i) to (xvi)
- B. That Council establish a working party to review Chapter B3 General Development Controls, in particular controls relating to building bulk, scale, envelope, floorplates, setbacks and site excavation, and any other DCP controls that the working party believe are necessary to review and amend to enable a high level of architectural quality, built form and environmental amenity to be achieved within the municipality; and
 - (i) The Working Party include representatives from design and planning organisation practicing in the municipality as appointed by the Mayor;
 - (ii) Council staff regularly report on the progress and any recommendations from the Working Party to the Urban Planning Committee.
 - (iii) The review and recommendations of the Working Party be reported to the Urban Planning Committee within four (4) months from the date that the Development Control Plan comes into effect.
- C. That the working party referred to in B above also consider and review the minimum lot widths for:
 - (i) Detached dual occupancies;
 - (ii) Attached dwellings and
 - (iii) Residential flat buildings or multi dwelling housing containing four or more dwellings, in conjunction with the relevant minimum lot size controls in the Woollahra Local Environmental Plan 2014.

On 3 August 2015, Council adopted the following notice of motion:

THAT the working party which will be established in response to Council's resolution of 27 April 2015 also consider the merit of changing the maximum residential car parking standards contained in chapter E1.4.2 of the Woollahra Development Control Plan 2015 to

minimum standards and also consider if the excavation controls contained in chapter B3.4 of the DCP should be changed to accommodate this change.

2. Establishment of the working party

The Mayor, Councillor Zeltzer, in accordance with part B(i) of the resolution of 27 April 2015, appointed the following people to the working party:

Chair:	Cr Ted Bennett
Councillor:	Cr James Keulemans
Architects:	Chris Howe Bruce Stafford Alec Tzannes
Planners:	George Karavanas (Gary Shiels and Associates)
Independent:	Rod Simpson, architect/urban designer, (Sydney University)

2. Progress overview

The working party has held meetings on 15 September 2015 and 13 October 2015. Both meetings were at the Council Chambers and chaired by Councillor Ted Bennett.

The first meeting was attended by four practitioners, four staff and two Councillors. The second meeting was attended by three practitioners, five members of staff, a councillor and an independent expert. The minutes of the meetings are attached (**Annexure 1 and Annexure 2**). The second meeting minutes have not been adopted by the working party.

At the first meeting the working party discussed a range of matters that fell into three categories:

1. The overall approach to the controls – the appropriateness of using the same set of building envelope controls for a large part of the municipality in which there are different natural and built conditions.
2. The maximum floorplate control - the merit of using a maximum floorplate control of 165% compared with the previous floor space ratio controls.
3. Excavation – the stringency of the excavation controls and the potential to allow more flexibility.

The second meeting focussed on the practical application of the building envelope and excavation controls. Presentations illustrated by examples of approved and constructed buildings were made by the practitioners and Council staff.

Although progress has been made with the review of chapter B3, the working party is not in a position to make any specific recommendations at present. The working party is still to discuss certain aspects of the issues raised in parts B and C of the Council's decision.

It was agreed that the next meeting, to be held on 5 November, will discuss options for a preferred set of controls.

3. Conclusion:

The working party has identified a range of matters which have been informed by the practical use of the new building envelope controls by Council planners and external professionals. Comparison with the previous set of controls has formed part of the review process.

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The working party will continue to examine the controls as required by the Council's decision. All suggested changes will need to be rigorously tested before firm recommendations are made to the Council.

Annexures

1. Building Envelope Controls - Workshop 1 - 15 September 2015 - Minutes
2. Building Envelope Controls - Workshop 2 - 13 October 2015 - Minutes

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Annexure 1 Report to the UPC meeting of 19 October 2015

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MINUTES

DCP2015 CHAPTER B3 REVIEW WORKING PARTY WORKSHOP 3

5 November 2015
(Meeting commenced 4pm)

<p><u>Attendees:</u> George Karavanas Bruce Stafford Rod Simpson Alec Tzannes</p> <p><u>Councillors:</u> Cr James Keulemans</p>	<p><u>Council Staff:</u> Allan Coker Chris Bluett Nick Economou Anne White Tom Jones Jorge Alvarez</p> <p><u>Apologies:</u> Cr Ted Bennett Chris Howe Brendan Metcalfe</p>
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Issues raised	Action/Response
1. Minutes of the previous meeting	<ul style="list-style-type: none"> Previous minutes adopted
Preliminary discussion	
2. Practitioners raised the issue of incorporating "equity" for development potential in the DCP controls. 3. Practitioners commented that the controls should provide a greater emphasis on the impact of private development on the public domain.	<ul style="list-style-type: none"> Staff to consider how the issue of equity can be incorporated into the controls. Staff to consider controls to place a greater emphasis on the impact of private development on the public domain.
Presentation from Council staff	
4. A presentation was made by Council staff that incorporated the outcomes of the working party. The presentation included: <ul style="list-style-type: none"> Outcome objectives of DCP controls Process objectives of working party 3 options for the future of development controls in Woollahra, as listed below. 	<ul style="list-style-type: none"> Staff to forward presentation and minutes to CH to circulate to practitioner group.

Issues raised	Action/Response
<p>5. Option 1: Retain existing control set</p> <ul style="list-style-type: none"> • Issues with the existing controls are clearly understood. They are considered difficult to interpret. • However, they have had the positive outcome of allowing development assessment planners to enforce a numerical standard for floor plate, stopping the progression of additional development size by steal. • A possible means of enhancing the ease of using these controls is to commission an electronic software tool to make interpretation easier. This could be made available online. 	<ul style="list-style-type: none"> • Staff to note that retaining the existing control set is not a preferred option for the practitioners in attendance. • Noted.
<p>6. Option 2: FSR and height in LEP + setbacks in DCP</p> <ul style="list-style-type: none"> • FSR is universally used and understood, however, it is not a design tool, just a density control tool. Consequently, this option is considered the "easiest" option for developers and the public to understand, particularly in considering development potential. • A number of detailed questions were raised about this option, such as varying FSRs across the LGA. The fine grain details would only be examined if this option was chosen as preferred option. 	<ul style="list-style-type: none"> • Staff to note that option 2 was considered to have some positive merits, but was not the preferred option for the practitioners in attendance. • Staff to note that if an FSR control is introduced, it should vary by character precinct.
<p>7. Option 3: Height in LEP + BEC without floorplate in DCP</p> <ul style="list-style-type: none"> • A building envelope would avert the need for FSR. However, very specific ancillary controls are required to ensure good design outcomes. • The danger of this option is developers wanting to "fill the building envelope". • It is difficult for development assessment officers to refuse an application based on "design" controls. 	<ul style="list-style-type: none"> • Staff to note that for the attendees, option 3 was agreed to be the preferred option by practitioners.
<p>8. What is best practice?</p> <ul style="list-style-type: none"> • NSW planning framework is very legalistic and different to many other comparable jurisdictions. • In many developed nations, an expensive, fine grained approach is adopted. • Case studies examples of Forest Hills, NY suggested to inform future policy for treatment of the public domain. 	<ul style="list-style-type: none"> • Staff to note and research examples of exemplar public domain outcomes such as Forest Hills, NY.
<p>9. Next steps</p>	<ul style="list-style-type: none"> • Staff to investigate option 3 controls within a precinct, and report back to the next meeting with potential new controls for discussion.
<p>Next meeting Wednesday, 3 February 2016 4pm (Thornton Room)</p>	

MINUTES

DCP2015 CHAPTER B3 REVIEW WORKING PARTY WORKSHOP 4

3 February 2016
(Meeting commenced 4pm)

<p><u>Attendees:</u> Rod Simpson George Karavanas Bruce Stafford Alec Tzannes Chris Howe</p> <p><u>Apologies:</u> Cr Ted Bennett Cr James Keulemans Nick Economou</p>	<p><u>Council Staff:</u> Allan Coker Chris Bluett Anne White Tom Jones Jorge Alvarez Brendan Metcalfe</p>
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Issues raised	Action/Response
<p>1. Minutes of the previous meeting</p> <p>Preliminary discussion</p>	<ul style="list-style-type: none"> • Previous minutes adopted
<p>2. Introduction by Allan Coker</p> <p>Presentation from Council staff</p>	
<p>3. A presentation was made by Council staff that was in response to issues raised at the previous working party and included:</p> <ul style="list-style-type: none"> • Summary of research into controls used in other Sydney Metropolitan Councils <ul style="list-style-type: none"> — North Sydney and Pittwater have no FSR — The floorplate control is unique to Woollahra — North Sydney and Randwick use a site coverage control 	<ul style="list-style-type: none"> • Staff to forward presentation and minutes to CH to circulate to practitioner group.
<p>4. Option (2): Delete floorplate and replace with FSR control in WLEP 2014</p> <ul style="list-style-type: none"> • Staff presented a summary of the Randwick and Waverley approach <ul style="list-style-type: none"> — Randwick and Waverley both use similar approaches to control building bulk in R2 Low Density Residential zones: — Primary control 0.5:1 FSR (LEP Standard Instrument definition) 	

Issues raised	Action/Response
<p>5. Option (3): Delete floorplate and investigate site coverage control</p> <ul style="list-style-type: none"> • Staff presented on the possibility of using a site coverage control. For example, 30%. Similar to the approach used in North Sydney. • Control can be varied based on: <ul style="list-style-type: none"> — Land use e.g. dwelling or swimming pool — Precinct — Lot size • The controls tested would allow variations outside the building envelope where amenity of surrounding development is improved • Site cover tested in three streets in Rose Bay • Some practitioners identified that there needed to be an urgent amendment to the control set. This could involve a two staged approach by amending the DCP in the short-term and then establishing FSRs in the LEP over the longer term. 	<ul style="list-style-type: none"> • Staff noted the support for the site coverage control (subject to refinement). • Staff to consider amendments to the DCP as a short term solution. This can then inform a future review of the FSR control as part of the two staged approach.
<p>6. Recommendation</p>	
<ul style="list-style-type: none"> • Staff recommended that Option 2: Delete floorplate and replace with FSR control in WLEP 2014 is preferred • Next steps would be to <ul style="list-style-type: none"> — Investigate FSR control (using SI definition of GFA) — Investigate precinct variations — Make recommendation to Council committee — If adopted, make LEP and DCP amendments • Practitioners requested further emphasis on 'design excellence'. Design excellence should be addressed up front in the DCP. The controls should be based on these principles. • Practitioners suggested that in some cases applicants could pay for a peer review. • Rod Simpson cautioned over reliance on the concept of design excellence clauses. 	<ul style="list-style-type: none"> • Staff noted the support for further investigating option 2, including a precinct based FSR control. • Staff to consider the concept of design excellence and how it can be incorporated into the DCP. • Staff to consider the design quality principles raised in SEPP 65. • Staff to consider that the desired environmental outcome should drive controls e.g. amount of deep soil landscaping.
<p>7. Other business</p>	
<ul style="list-style-type: none"> • It was noted that the outstanding notices of motions relating to excavation and minimum lot sizes would be discussed at a future meeting of the working party. 	<ul style="list-style-type: none"> • Practitioners to provide five examples of DAs where excavation controls have been an issue.
<p>8. Next steps</p>	<ul style="list-style-type: none"> • Practitioners to convene a meeting of their members, at which they will discuss Council's presentation. • Chris Howe to provide a formal group response on the recommendations presented at the workshop. • Staff to consider practitioner response in finalising the agenda for the next meeting.
<p>Next meeting Wednesday, 2 March 2016 4pm (Council Chambers)</p>	

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Annexure 4

31 October 2016

Item No: R1 Recommendation to Council
Subject: **REVIEW OF CHAPTER B3 GENERAL DEVELOPMENT CONTROLS OF THE WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015**
Author: Anne White, Acting Team Leader - Strategic Planning
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 16/137452
Reason for Report: To provide a progress report on the latest meetings of the working party established to review Chapter B3 General Development Controls of the Woollahra DCP 2015.
To obtain a Council resolution to prepare and exhibit a draft development control plan to amend Chapter B3 General Development Controls as contained in Woollahra DCP 2015.

Recommendation:

- A. That the overview of the Woollahra DCP 2015 Working Party meetings held on 2 March 2016, 21 April 2016 and 4 August 2016 is received and noted.
- B. That Council resolve to prepare and exhibit a draft development control plan to amend Chapter B3 General Development controls of the Woollahra Development Control Plan 2015.
- C. That the draft chapter as contained in Annexure 8 of the report to the Urban Planning Committee of 31 October 2016 be used for the purpose of preparing the draft DCP.
- D. That staff report on the submissions received during the public exhibition to a future meeting of the Urban Planning Committee.

1. Background

On 27 April 2015, Council resolved the following:

- A. *That the Woollahra Development Control Plan 2015 (version dated 13 April 2015) be adopted by Council, subject to the following:*
 - (i)to (xvi)
- B. *That Council establish a working party to review Chapter B3 General Development Controls, in particular controls relating to building bulk, scale, envelope, floorplates, setbacks and site excavation, and any other DCP controls that the working party believe are necessary to review and amend to enable a high level of architectural quality, built form and environmental amenity to be achieved within the municipality; and*
 - (i) *The Working Party include representatives from design and planning organisation practicing in the municipality as appointed by the Mayor;*
 - (ii) *Council staff regularly report on the progress and any recommendations from the Working Party to the Urban Planning Committee.*
 - (iii) *The review and recommendations of the Working Party be reported to the Urban Planning Committee within four (4) months from the date that the Development Control Plan comes into effect.*

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- C. *That the working party referred to in B above also consider and review the minimum lot widths for:*
- *Detached dual occupancies;*
 - *Attached dwellings and*
 - *Residential flat buildings or multi dwelling housing containing four or more dwellings, in conjunction with the relevant minimum lot size controls in the Woollahra Local Environmental Plan 2014.*

In response, a working party was established to review Chapter B3 General Development Controls in the Woollahra Development Control Plan 2015 (Woollahra DCP 2015). The working party consisted of staff from the planning and development team and the following members:

Councillors: Cr Ted Bennett (Chair) and Cr James Keulemans

Independent advisor: Rod Simpson (Simpson and Wilson Architects, Associate Professor University of Sydney)

Practitioners: Chris Howe (Principal Bossley: Howe Architects, Alec Tzannes (Director: Tzannes Associates, New South Wales University Emeritus Professor), Bruce Stafford (Principal: Bruce Stafford Architects), George Karavanas (Director: GSA Planning)

An overview of the first two meetings (held on 15 September 2015 and 13 October 2015) was reported to the Urban Planning Committee on 19 October 2015 (see **Annexure 1**). An overview of the third and fourth working party meetings (held on 5 November 2015 and 3 February 2016) was reported to the Urban Planning Committee on 29 February 2016 (see **Annexure 2**).

In summary, a range of matters regarding the existing controls in Chapter B3 were discussed. The key themes are identified below.

Workshop Meeting	Theme
1. 15 September 2015	<ul style="list-style-type: none"> • Overall approach and appropriateness of the controls • Concerns using the floorplate control • Concerns regarding the stringency of the excavation controls.
2. 13 October 2015	<ul style="list-style-type: none"> • The practical application of the building envelope and excavation controls. • Presentations were made by both practitioners and staff on the complexities of applying the controls.
3. 5 November 2015	Deleting the floorplate control and replacing it with either: <ul style="list-style-type: none"> • Precinct specific FSR control in Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014). • Alternative control in the DCP.
4. 3 February 2016	Further discussions into alternatives to the floorplate control identified: <ul style="list-style-type: none"> • The majority of Sydney councils use FSR to control building bulk. • Group supported further research into the use of FSR, however, concern was raised with the time it would take to implement. • Alternative short term solution to an FSR control could be the use of a site coverage control.

2. Workshops 5-7 overviews

2.1 Workshop 5: 2 March 2016

The fifth working party meeting was held on 2 March 2106 and was attended by four practitioners, one Councillor, an independent expert and six members of staff. The minutes of this meeting are attached (**Annexure 3**).

At this meeting the discussion was initially focused on the refinement of the site coverage approach. As a consequence of research, staff recommended using a footprint control as an alternative to the site coverage control. The proposed footprint control takes into account all building elements such as balconies (whilst a site coverage control does not).

Other minor changes recommended by staff included a simpler approach to calculating side and rear setbacks and amending the deep soil landscaping calculation consistent with the proposed footprint control.

The practitioners presented revised aims and objectives for the chapter, in particular, to encourage design excellence. The working group was to further consider how the proposed aims and objectives could be incorporated into the DCP.

The rest of the meeting focused on excavation and the practitioners' concerns with the stringency of the excavation controls. The evolution of the existing controls was presented by staff, and case studies were presented by the practitioners.

2.2 Workshop 6: 21 April 2016

The sixth working party meeting was held on 21 April 2016 and was attended by four practitioners, two Councillors, an independent expert and six members of staff. The minutes of this meeting are attached (**Annexure 4**).

The main focus of this meeting was the excavation controls. Staff reiterated that due to amenity impacts, previous Councils have sought to reduce the quantity of excavation in the LGA. Staff presented research into the controls, providing evidence that the controls are practical and appear to be operating successfully. However, the practitioners continued to raise concerns that the controls are overly onerous and do not guarantee the best building outcome on the site.

The next item on the agenda was a response to the following action from the *Delivery Program 2013-2017 and Operational Plan 2015/16* (DPOP):

- 4.1.1.18: Review Residential DCP 2015 car parking standards to consider changing maximum rates to minimum rates; in conjunction, consider the need to change excavation controls to accommodate minimum rates (NOM 10 August 2015).

Staff presented their concerns with changing the maximum car parking controls to minimums. The independent expert agreed that returning to a minimum car parking control is a retrograde step. Notwithstanding, the practitioners opposed maximum car parking rates, and the working group agreed to investigate parking rates based on precinct conditions.

The final item on the agenda was the response to Part C of the Council resolution from 27 April 2015, which was a review of the minimum lot widths for various types of residential buildings. Staff summarised the evolution of the current minimum lot width controls, in particular, how the size and function of the basement parking areas has influenced the minimum lot width controls.

Staff recommended that the existing lot widths controls are retained. However, the practitioners raised concerns that the lot width controls should be contextual or precinct specific, and take into account lot length.

2.3 Workshop 7: 4 August 2016

The seventh working party meeting was held on 4 August 2016 and was attended by three practitioners, two Councillors, and five members of staff. The minutes of this meeting are attached (**Annexure 5**).

The main focus of this meeting was again, the excavation controls. In order to move forward on this issue, staff proposed two options for further consideration.

Option 1: Retain objectives and controls, and increase the excavation volumetric allowance

Option 2: Retain objectives and controls, and delete the volumetric excavation controls

In response to these two options, practitioners identified a preference for Option 2, recommending that excavation should not be restricted by volumetric controls.

Finally, staff presented an update on the car parking review being carried out by consultants for Council which recommended maintaining the current maximum car parking rates. The practitioners maintained their opposition to maximum car parking rates.

2.4 Submission from the Eastern Design and Planning Professionals Alliance

Staff have been in the process of revising and updating the contents of *Chapter B3 General Development controls* of the Woollahra DCP 2015 as a consequence of the issues raised by the working party, and feedback from Council's development control staff. A number of amendments to the chapter are proposed. Following workshop 7, the latest draft of the revised Chapter B3 was circulated to the practitioners for their response. On 10 October 2016 the practitioners provided a submission on behalf of the *Eastern Design and Planning Professionals Alliance (EDPPA)* (see **Annexure 6**) recommending further amendments to the revised Chapter. As stated in the submission.....*The objectives and purpose of the EDPPA is to represent and provide submissions on behalf of design and planning professionals in the eastern suburbs to both local authorities and the state government on matters relating to statutory planning instruments, planning policies, or other planning instruments or policies which may potentially affect the building environment or public domain within the eastern suburbs of Sydney.*

In response to this submission, staff have made further amendments to the revised Chapter B3. A summary of the issues raised by the EDPPA and the response from staff is attached at **Annexure 7**.

3. Key issues

The working party has provided a productive and practical forum for Council staff and practitioners to discuss the strengths and weakness of the existing planning controls in Chapter B3, and advocate potential new approaches to controlling building bulk in the Woollahra LGA.

A number of different issues have been considered during this process. However, the working party particularly focused on those issues raised in the Council resolutions being: building bulk and scale, floorplates, setbacks, site excavation and car parking.

Running concurrently with this process, Council's development assessment officers have raised a number of issues which have required investigation.

What follows is a commentary on the key issues raised and what changes are proposed in response.

3.1 Design excellence

At several working party meetings the practitioners requested that the controls should have a greater focus on facilitating and achieving design excellence in development. The practitioners submitted that this could be achieved by including a set of over-arching objectives at the beginning of the chapter which confirm the Council's commitment to design excellence. The EDPPA submission includes a proposed set of design excellence objectives.

Council staff support incorporating a set of design excellence criteria which will assist in elevating the level of design quality and amenity in development, and improve the development application process. The proposed design excellence criteria are contained in section 3.1.3 of the revised Chapter B3, replacing the existing chapter objectives.

The criteria were based on round table discussions between Council staff and practitioners, the EDPPA submission and reinforced by academic contributions and research of best practice design excellence.

3.2 Improved environmental outcomes: allow flexibility in the controls

To allow flexibility to the numerical controls, the EDPPA recommends including a control identifying that variations may be considered where the applicant can demonstrate an improved environmental outcome.

Council staff do not support inserting such a provision for the following reasons:

- As identified in section 74BA of the *Environmental Planning and Assessment Act 1979* the principal purpose of a DCP is to provide guidance and give effect to the aims of any environmental planning instrument. A DCP does not contain statutory requirements. The DCP controls already provide for flexibility and variations based on a merit assessment and compliance with the relevant objectives.
- There is no certainty in the meaning of "improved environmental outcome".
- Inserting a variation clause may imply that variations are approved as a matter of course, whereas compliance with the control should be the default position.

Notwithstanding, in response to the practitioners submission, Council staff support a control to allow consideration of a variation to the wall height control of 7.2m on sloping sites (where the site slopes more than 15%) (see page 21 of **Annexure 8**).

Council's assessment staff have confirmed that minor variations to the wall height controls on the downslope side of sloping sites may be appropriate to facilitate building floor levels with improved internal amenity and better building design (such as reduced building stepping). However, any variations to the controls must be considered in the context of the objectives of the control, the LEP zone objectives, and provide sufficient environmental planning grounds to justify the variation. Additionally, the statutory building height control in the Woollahra LEP 2014 will continue to apply.

3.3 Rear setback

The existing rear setback control is based on a site depth sliding scale. Council's assessment officers have identified that this control is complicated to apply and assess. In response to this feedback the revised Chapter B3 includes a simplified rear setback which is 25% of the site depth.

In their submission the practitioners have identified that they support the proposed rear setback control.

3.4 Floorplate and proposed footprint controls

A key concern with the existing control set is the complexity associated with calculating the permissible floor area and development potential for the site. This issue has been raised by internal development assessment officers, customers and practitioners.

Currently, the development yield is calculated via a two-step methodology. First, the buildable area is established by applying the front, rear and side setbacks. The maximum amount of development permitted on the site is then determined by multiplying the buildable area by a factor of 1.65 (165%). This is the maximum permitted total floorplate, which is measured across each level.

Alternatives to the floorplate controls were discussed at multiple working party meetings. At Workshop 5 these discussions were synthesised and the footprint methodology was supported as a new approach to controlling building bulk. In their submission, the practitioners identify that they agree with and support the main elements of the proposed footprint control

The footprint is expressed as a percentage of the site area and varies based on site size and precinct characteristics. Differing to the floorplate approach, it does not specify the total floor space that can be accommodated on a site, but the percentage of the site area the building can accommodate. Once the footprint percentage is applied, the proposed building bulk is then regulated by the statutory height control in the Woollahra LEP 2014, the setbacks, wall heights and inclined plane controls in the Woollahra DCP 2015. A diagram showing a summary of the proposed building bulk controls is shown below:

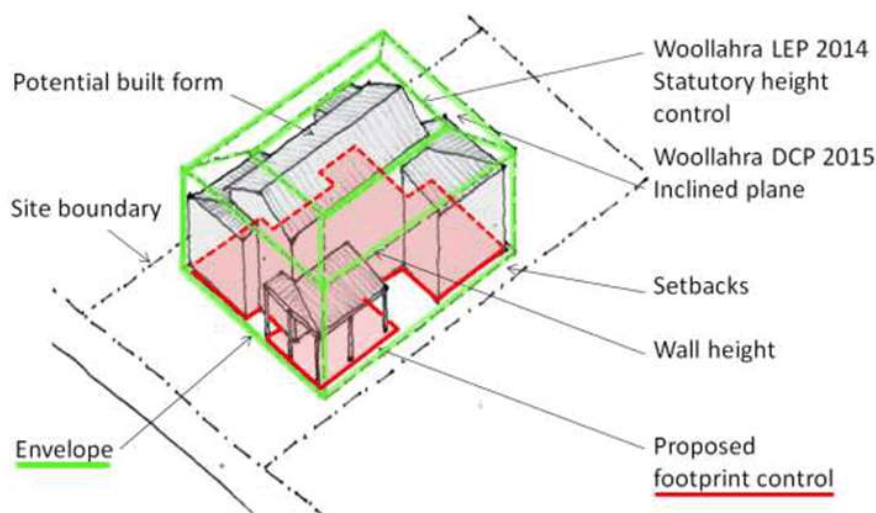


Figure 1: Proposed control set

The footprint percentages have been translated from the existing floorplate sliding scale. This varies the intensity of development based on site size. That is, a smaller site has a greater footprint percentage. There are two different footprint controls (excluding the heritage conservation areas of Paddington, Watsons Bay and Woollahra). The first is a generic figure, which is applied to all of the residential precincts. The second is a variation for the Point Piper precinct which has a unique desired future character with greater development intensity.

As per the practitioners' submission, these footprint percentages were cross referenced and adjusted based on recent development application approvals. This has ensured that the footprint percentages are representative and practical.

3.5 Footprint definition

Whilst the practitioners support elements of the footprint control, they do not support its definition. Specifically, the practitioners oppose the inclusion of elements of the building such as covered decks, balconies, entry porches, verandahs, porte cochers, crofts and the like. They identify that this definition will result in unreasonably restrictive controls which will create undesirable amenity and environmental impacts.

Furthermore, the practitioners submit that only those building elements which contain internal areas above or below should be included in the definition of building footprint, and should be clearly identified in the wording of building footprint and contain no ambiguity.

Staff do not support amending the footprint definition to only include those parts of the building which contain internal elements for the following reasons:

- Covered outdoor areas form part of the building bulk and should therefore be regulated.
- Providing an exemption for outdoor areas would complicate the assessment process.
- Outdoor areas are generally considered desirable by occupants, and the development control team has advised that applicants are unlikely to remove these elements.
- Should the footprint definition be amended (as per the practitioners' suggestion) the development control team advised that applicants are likely to maximise internal floor area within the envelope and also provide outdoor space such as balconies, beyond the envelope, thereby increasing the building bulk.

3.6 Floor space ratio control

In the course of investigating alternatives to the floorplate control, Council officers researched the controls used in other Sydney metropolitan Council's. As a consequence of this research, it was noted that the majority of Councils use FSR to control building bulk for all types of residential accommodation. In particular, staff identified that both Randwick and Waverley Council use FSR in the R2 Low Density Residential zones. Both Councils use a floor space ratio of 0.5:1 in their residential zones.

Consistent with the approach used by both Randwick and Waverley Council, there was overall support for further investigating the use of an FSR control in the Woollahra LEP 2014. However, an amendment to Woollahra LEP 2014 to insert a floor space ratio control could take up to eight months to implement. Therefore, the working party recommended refining the footprint control as a short term solution.

3.7 Excavation

Whilst excavation is a frequent element of development in the Woollahra Municipality, Council has recognised that the processes associated with excessive excavation can have many negative impacts including:

- Noise
- Vibration
- Dust
- Land destabilisation
- Property damage
- Amending ground water flows and vegetation

In response to concerns regarding excessive excavation, numerical volumetric excavation controls were added to the *Woollahra Residential Development Control Plan 2003* in September 2012. These controls were then translated into Chapter B3 of the Woollahra DCP 2015. During the working party meetings, and as part of their submission, the practitioners have maintained their opposition to the excavation objectives and controls. The practitioners consider the excavation provisions are:

.....unreasonably, unnecessarily prescriptive and restrictive, hinder long term amenity and environmental benefits over short term amenity impacts, and do not result in increased risk mitigation to neighbouring properties of the public (see pg. 15 of Annexure 6).

The practitioners have raised a number of concerns with the proposed excavation objectives and controls. These are contained in their submission at **Annexure 6**, and a summary of this submission and a response from staff is attached at **Annexure 7**. However, the practitioners' two key recommendations are to:

- 1) Delete the volumetric controls;
- 2) Adopt a new set of objectives and controls

3.8 Excavation: Volumetric controls

The practitioners have consistently argued against a volumetric excavation control, the justifications identified in their submission are:

- Excavation can result in positive outcomes to building occupants and the public over the long term improving amenity and achieving the principles of ecologically sustainability.
- Risk to adjoining properties, infrastructure and the public is not affected by the quantum of excavation, but rather the methodology by which it is carried out.
- Excavation reduces the bulk and scale of buildings where overshadowing, view impacts, or other visual or acoustic environmental impacts occur.
- Allowing additional excavation for on-site car parking (without adding to the bulk and scale) improves the quality of the street and public spaces by reducing the demand for street parking.
- Current objectives and controls are not based on scientific or geotechnical evidence.
- Development approvals for excavation issued by Council have varied by up to four and five times the controls.

Council staff do not support deleting the numerical volumetric excavation controls for the following reasons:

- Ecologically sustainable buildings can be constructed without the need for excessive excavation.
- Council's development assessment staff have advised that in their experience, the risks from excavation to adjoining properties are influenced by the type of sub-surface material, the topography, the proximity of works to the adjoining properties and the depth and volume of material excavated.
- There is no evidence to suggest that allowing additional excavation for on-site car parking would decrease the demand for street parking.
- Since the introduction of the Woollahra DCP 2014, the majority of development applications have complied with the volumetric excavation controls. The research also reveals there are non-compliances to varying degrees. However, in those circumstances the amount of variation was considered acceptable in the circumstances of the case.
- The approval of variations does not imply that the controls are not a practical and effective assessment tool. Variations to the volumetric control can be approved as the DCP provides flexibility based on a merit assessment for each circumstance and compliance with the relevant objectives.
- Without volumetric excavation controls, subject to satisfactory engineering, any amount of excavation could be permissible on a site.

3.9 Excavation: practitioners' objectives and controls

As part of their submission at **Annexure 6**, the practitioners have submitted a set of proposed objectives and controls relating to excavation. Where possible these objectives and controls have been added to the draft chapter. However, the majority of the proposed controls are not appropriate for inclusion in the DCP as they are more pertinent to the development application process after consent has been granted. This would include issues such as access to adjoining properties and the preparation of dilapidation reports.

3.10 Excavation: options

Based on discussions at the working party meetings and the practitioners' submission there are two options for progressing our approach to excavation.

Option 1: Retain numerical volumetric excavation controls (as per section B3.4 in **Annexure 8**)

Option 2: Delete numerical volumetric excavation controls (as per **Annexure 9**).

The proposed controls in **Annexure 9**, have regard to the practitioners' submission. However, they do not include those matters which are already covered by the development application process as conditions of development consent.

We recommend Council retains the numerical volumetric excavation controls as per **Option 1** as a way to minimise excessive excavation in the Woollahra LGA.

3.11 Car parking

The *Delivery Program 2013-2017 and Operational Plan 2015/16* (DPOP) identified the following action:

- 4.1.1.18: Review Residential DCP 2015 car parking standards to consider changing maximum rates to minimum rates; in conjunction, consider the need to change excavation controls to accommodate minimum rates (NOM 10 August 2015).

This issue of changing maximum rates to minimum rates, in conjunction with changes to the excavation controls was discussed at workshops 6 and 7. Throughout this process the practitioners have raised their opposition to maximum car parking rates, and this issue was expanded in their submission.

Practitioners submit there should be no restrictions on the number of on-site parking spaces, where deep soil landscaping, desired future character, views, solar access and building footprint can be achieved.

Further, the practitioners have submitted that providing on-site parking (where the visual and physical impacts are addressed) provides amenity and environmental benefits to residents and the public. These amenity and environmental benefits include a reduction in on street parking and potential for increasing trees and landscaping in the public domain.

Car parking rates are identified in *Chapter E1 Parking and Access* of the Woollahra DCP 2015. On 22 August 2016, the Urban Planning Committee considered a report on the review of *Chapter E1 Parking and Access*. As part of this review, Council engaged Cardno consultancy to undertake a comprehensive review of the chapter.

Cardno concludes that the existing residential parking rates were generally reasonable for the purposes of providing adequate and appropriate off-street parking spaces and encouraging the community to divert from private vehicle use. The existing maximum rates were recommended to be retained (except for studio and one bedroom apartments in Double Bay). This approach was endorsed by staff as it is consistent with Council's strategic direction for car parking and transport management.

The Council resolved at the meeting of 12 September 2016 to prepare and exhibit a development control plan to amend Chapter E1 Parking and Access of the Woollahra DCP 2015. However, this does not propose amendments to the existing maximum car parking rates.

Draft Woollahra Development Control Plan (Amendment No.1) is on public exhibition until Friday, 11 November 2016. The EDPP has been invited to make a submission.

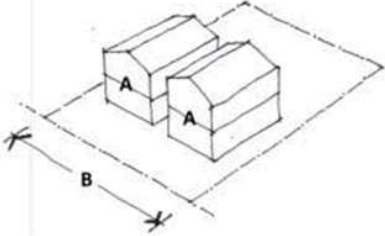
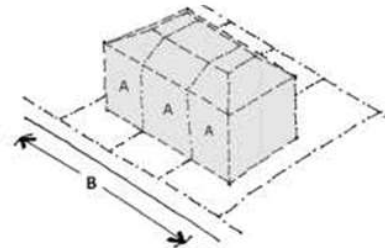
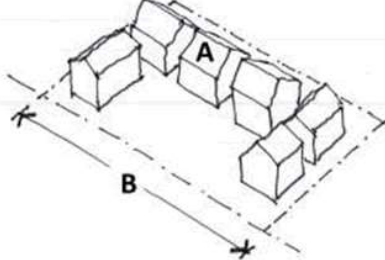
3.12 Minimum Lot widths

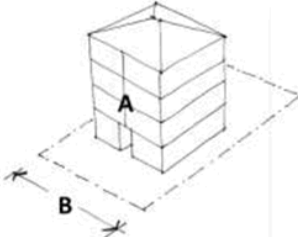
Part C of the Council's resolution from 27 April 2015 is as follows:

That the working party referred to in B above also consider and review the minimum lot widths for:

- *Detached dual occupancies;*
- *Attached dwellings and*
- *Residential flat buildings or multi dwelling housing containing four or more dwellings, in conjunction with the relevant minimum lot size controls in the Woollahra Local Environmental Plan 2014.*

The minimum lot widths for these residential land uses are contained in section B3.8.1 of the Woollahra DCP 2015, and the minimum lot size controls are contained in C1 4.1A of the Woollahra LEP 2014. The following table summarises these controls, how they apply to each land use, and the basis for the minimum lot width.

Residential land uses	Diagram A = Residential land use B = Minimum lot width
<p>dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.</p> <p>21m minimum frontages(WDCP 2015)</p> <p>Min lot size: - R2: 930sqm (WLEP 2014) - R3: 460sqm (WLEP 2014)</p>	
<p><i>Basis for minimum lot width</i></p>	
<ul style="list-style-type: none"> • Dwelling widths of at least 7m • Side setbacks to comply with the controls in section B3.2.3 • Building separation • Consistency with the desired future character 	
<p>attached dwelling means a building containing 3 or more dwellings, where:</p> <p>(a) each dwelling is attached to another dwelling by a common wall, and</p> <p>(b) each of the dwellings is on its own lot of land, and</p> <p>(c) none of the dwellings is located above any part of another dwelling.</p> <p>24 minimum frontage (WDCP 2015)</p> <p>Min lot size: no control applies</p>	
<p><i>Basis for minimum lot width</i></p>	
<ul style="list-style-type: none"> • Dwelling widths of at least 7m • Side setbacks to comply with the controls in section B3.2.3 • Sufficient space for aisle separate basement car parking rows ensuring compliance with the relevant car parking rates in Chapter E1 Parking and Access. • Consistency with the desired future character 	
<p>multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building</p> <p>Three dwellings: 15m minimum frontage (WDCP 2015) Min lot size: 700sqm (WLEP 2014)</p> <p>Four + dwellings : 21m minimum frontage (WDCP 2015) Min lot size: 700 sqm (WLEP 2014)</p>	
<p><i>Basis for minimum lot width</i></p>	
<ul style="list-style-type: none"> • Dwelling widths of at least 7m • Side setbacks to comply with the controls in section B3.2.3 • Building separation • Consistency with the desired future character 	

Residential land uses	Diagram A = Residential land use B = Minimum lot width
<p>residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.</p> <p>Three dwellings: 15m minimum frontage (WDCP 2015) Min lot size: 700sqm (WLEP 2014)</p> <p>Four + dwellings: 21m minimum frontage (WDCP 2015) Min lot size: 700sqm (WLEP 2014)</p>	
<p><i>Basis for minimum lot width</i></p>	
<ul style="list-style-type: none"> • Side setbacks to comply with the controls in section B3.2.3 • Building separation • Consistency with the desired future character • Sufficient space for aisle separate basement car parking rows ensuring compliance with the relevant car parking rates in Chapter E1 Parking and Access. 	

The accompanying minimum lot size controls in the Woollahra LEP 2014 are based on a dwelling density of 230m² per dwelling. For example, residential flat buildings and multi dwelling housing both require a minimum of three dwellings on one lot of land. Using a dwelling density figure of 230m² and multiplying by three equates to 700m² (rounded up). These minimum lot sizes are based on established subdivision patterns and contribute to the provision of appropriate densities in the residential precincts.

These controls are a practical and effective tool to ensure that a site is of sufficient size and width to accommodate the proposed land use, comply with the other relevant controls in the DCP and minimise the potential amenity impact to adjoining properties. Council's development control officers have confirmed that they are an effective and well understood tool. It is recommended that these controls are retained in their current form. Should an applicant seek to vary a lot width control, the DCP allows some flexibility based on a merit assessment and compliance with the relevant objectives.

4. Summary of key changes to Chapter B3 General Development Controls

Having considered the discussions at the seven working party meetings, additional feedback from practitioners and supplementary feedback from Council's development assessment officers, staff have prepared an amended chapter which provides a new approach to controlling building bulk in the Woollahra LGA. The aim of the amended chapter is to create a control set which:

- Is easy for applicants to understand
- Is expressed in simple language
- Allows a site's development yield to be easily calculated
- Provides an effective assessment framework for staff
- Allows development compliance to be easily determined.

Approximately 60 changes have been made to the revised Chapter B3. A summary of the key changes to the chapter is provided below. The revised Chapter B3 is attached at **Annexure 8**. Notes in the right hand margin identify whether the amendments arose from practitioner suggestions, feedback from Council's assessment officers or administrative amendments.

Topic	Amendment
<i>B3.1.2 Development to which this chapter applies</i>	Insert note to explain the relationship that the DCP has to development applications to which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies
<i>B3.1.3 Objectives</i>	Amend objectives to encourage and facilitate design excellence.
<i>B3.2.2 Front setback</i>	Simplify front wall articulation controls, (and diagrams) as existing controls are overly prescriptive.
<i>B3.2.3 Side setbacks</i>	<ol style="list-style-type: none"> 1. Insert diagram to clarify how the side setback is calculated. 2. Replace side setback sliding scales with simplified tables. 3. Simplify objectives and controls relating to side wall articulation. 4. Objectives and controls relating to privacy have been relocated to 3.5.4 to prevent duplication.
<i>B3.2.4 Rear setback</i>	<ol style="list-style-type: none"> 1. Delete building depth control (and associated sliding scale) and insert a simplified rear setback control of 25% 2. Delete building depth diagram and insert a new diagram illustrating the 25% rear setback
<i>B3.2.5 Wall height and inclined plane:</i>	<ol style="list-style-type: none"> 1. Insert a control identifying in which situations a variation to the inclined plane and wall height may be supported. 2. Amend wall height and inclined plane diagram
<i>B3.3 Floorplates</i>	<p>Delete section and replace with the footprint control section which is expressed as a percentage of the site area.</p> <ol style="list-style-type: none"> 1. Insert definition of footprint. 2. Establish a footprint control, and a variation for the Point Piper precinct.
<i>B3.4 Excavation:</i>	<ol style="list-style-type: none"> 1. Simplify objectives and delete objectives relating to infrastructure and energy. 2. Amend the controls to clarify that the volume of excavation also includes garaging structures (both attached and detached) 3. Insert control (and corresponding diagram) identifying that basement walls (including piling) for residential flat buildings, multi dwelling housing and attached dwellings must be set back up to 1.5m from the side boundary to facilitate basement car parking.
<i>B3.5.4 Acoustic visual privacy:</i>	Amend control by inserting consideration of the privacy of private open space.
<i>B3.6 On-site parking:</i>	Amend control to identify that on-site parking structures are limited to a maximum of 3.6m in height.
<i>B3.7.1 Landscaped and private open space:</i>	Amend the permissible percentage of deep soil landscaped area consistent with the new footprint control.
<i>B3.7.2 Fences:</i>	<ol style="list-style-type: none"> 1. Amend objective to address concerns regarding pedestrian safety. 2. Amend control to reflect that front fences facilitate views.
<i>B3.8.9 Non-residential development:</i>	Insert objective omitted in error, and insert note and control to clarify how to calculate the side setbacks and the excavation volumes.
<i>B3.9 Additional controls for development on battle axe lots:</i>	Minor amendment to controls to ensure consistent with proposed footprint controls.

In addition to the above changes, a number of minor administrative changes were made e.g. amend diagram cross references.

5. Future steps

1. A draft amending DCP based on the revised Chapter B3 attached at **Annexure 8** will be prepared.
2. Public participation including advertising will be carried out in accordance with part 3 of the *Environmental Planning and Assessment Regulation 2000* including an exhibition period of at least 28 days.
3. Public notice will be given in the Wentworth Courier each week of the exhibition, and we will notify the following:
 - o Members of the working party
 - o Eastern Suburbs practitioner working group (via its convener Chris Howe)
 - o Adjoining Councils including Randwick, Waverley and the City of Sydney.
4. The assessment of all submissions will be reported back to a future meeting of the Urban Planning Committee.
5. Subject to Council's resolution, the amendments will be made to the Woollahra DCP 2015.

6. Conclusion

Over the last 12 months the working party has met seven times, and has continued to provide useful and practical feedback on the function and practicality of the building envelope controls.

As a consequence of the discussions and research we consider that the changes can be made to the Woollahra DCP 2015 to enhance the operation of the controls for all users. We consider that the changes will facilitate improved outcomes.

The most significant change is the deletion of the floorplate control, and replacing it with a footprint control which is expressed as a percentage of the site area.

We consider that the changes can be progressed and publicly exhibited as a Draft DCP to amend the Woollahra DCP 2015.

Annexures

1. Annexure 1 - Urban Planning Committee Agenda - 19 October 2015 [↓](#)
2. Annexure 2 - Urban Planning Committee Agenda - 29 February 2016 [↓](#)
3. Annexure 3 - Building Envelope Controls - Workshop 5 - 2 March 2016 - Minutes [↓](#)
4. Annexure 4 - Building Envelope Controls - Workshop 6 - 21 April 2016 - Minutes [↓](#)
5. Annexure 5 - Building Envelope Controls - Workshop 7 - 4 August 2016 - Minutes [↓](#)
6. Annexure 6 - Submission from EDPPA October 2016 [↓](#)

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7. Annexure 7 - Staff response to submission from the EDPPA [↓](#)
8. Annexure 8 - Annotated copy of Chapter B3 General Development Controls [↓](#)
9. Annexure 9 - Non-Volumetric Excavation controls [↓](#)

Annexure 1

Woollahra Municipal Council
Urban Planning Committee Agenda

19 October 2015

Item No: R1 Recommendation to Council
Subject: **PROGRESS REPORT ON THE WOOLLAHRA DCP 2015
WORKING PARTY MEETINGS**
Author: Tom Jones, Urban Design Planner
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 15/145726
Reason for Report: To provide a progress report on the meetings of the working party established to review Chapter B3 of the Woollahra DCP 2015.

Recommendation:

THAT Council receive and note the report in relation to the meetings of the working party established to review Chapter B3 of the Woollahra DCP 2015.

I. Background

Council, on 27 April 2015, resolved:

- A. That the Woollahra Development Control Plan 2015 (version dated 13 April 2015) be adopted by Council, subject to the following:
 - (i) to (xvi)
- B. That Council establish a working party to review Chapter B3 General Development Controls, in particular controls relating to building bulk, scale, envelope, floorplates, setbacks and site excavation, and any other DCP controls that the working party believe are necessary to review and amend to enable a high level of architectural quality, built form and environmental amenity to be achieved within the municipality; and
 - (i) The Working Party include representatives from design and planning organisation practicing in the municipality as appointed by the Mayor;
 - (ii) Council staff regularly report on the progress and any recommendations from the Working Party to the Urban Planning Committee.
 - (iii) The review and recommendations of the Working Party be reported to the Urban Planning Committee within four (4) months from the date that the Development Control Plan comes into effect.
- C. That the working party referred to in B above also consider and review the minimum lot widths for:
 - (i) Detached dual occupancies;
 - (ii) Attached dwellings and
 - (iii) Residential flat buildings or multi dwelling housing containing four or more dwellings, in conjunction with the relevant minimum lot size controls in the Woollahra Local Environmental Plan 2014.

On 3 August 2015, Council adopted the following notice of motion:

THAT the working party which will be established in response to Council's resolution of 27 April 2015 also consider the merit of changing the maximum residential car parking standards contained in chapter E1.4.2 of the Woollahra Development Control Plan 2015 to

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minimum standards and also consider if the excavation controls contained in chapter B3.4 of the DCP should be changed to accommodate this change.

2. Establishment of the working party

The Mayor, Councillor Zeltzer, in accordance with part B(i) of the resolution of 27 April 2015, appointed the following people to the working party:

Chair: Cr Ted Bennett
Councillor: Cr James Keulemans
Architects: Chris Howe
Bruce Stafford
Alec Tzannes
Planners: George Karavanas (Gary Shiels and Associates)
Independent: Rod Simpson, architect/urban designer, (Sydney University)

2. Progress overview

The working party has held meetings on 15 September 2015 and 13 October 2015. Both meetings were at the Council Chambers and chaired by Councillor Ted Bennett.

The first meeting was attended by four practitioners, four staff and two Councillors. The second meeting was attended by three practitioners, five members of staff, a councillor and an independent expert. The minutes of the meetings are attached (**Annexure 1 and Annexure 2**). The second meeting minutes have not been adopted by the working party.

At the first meeting the working party discussed a range of matters that fell into three categories:

1. The overall approach to the controls – the appropriateness of using the same set of building envelope controls for a large part of the municipality in which there are different natural and built conditions.
2. The maximum floorplate control - the merit of using a maximum floorplate control of 165% compared with the previous floor space ratio controls.
3. Excavation – the stringency of the excavation controls and the potential to allow more flexibility.

The second meeting focussed on the practical application of the building envelope and excavation controls. Presentations illustrated by examples of approved and constructed buildings were made by the practitioners and Council staff.

Although progress has been made with the review of chapter B3, the working party is not in a position to make any specific recommendations at present. The working party is still to discuss certain aspects of the issues raised in parts B and C of the Council's decision.

It was agreed that the next meeting, to be held on 5 November, will discuss options for a preferred set of controls.

3. Conclusion:

The working party has identified a range of matters which have been informed by the practical use of the new building envelope controls by Council planners and external professionals. Comparison with the previous set of controls has formed part of the review process.

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The working party will continue to examine the controls as required by the Council's decision. All suggested changes will need to be rigorously tested before firm recommendations are made to the Council.

Annexures

1. Building Envelope Controls - Workshop 1 - 15 September 2015 - Minutes
2. Building Envelope Controls - Workshop 2 - 13 October 2015 - Minutes

MINUTES

DCP2015 CHAPTER B3 REVIEW WORKING PARTY WORKSHOP 1

15 September 2015
(Meeting commenced 4pm)

<p><u>Attendees:</u> Bruce Stafford George Karavanas Chris Howe Alec Tzannes</p> <p><u>Apologies:</u> Rod Simpson</p>	<p><u>Councillors:</u> Cr Ted Bennett Cr James Keulemans</p> <p><u>Council Staff:</u> Allan Coker Chris Bluett Anne White Tom Jones</p>
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Issues raised	Action/Response
Overall approach	
1. Practitioner group consists of 76 consultants, who should be kept informed of the progress.	<ul style="list-style-type: none"> • CH to circulate notes from this and other workshops to practitioners.
2. Not appropriate to have the same building envelope controls for the whole LGA as the context is very different.	<ul style="list-style-type: none"> • Practitioners to provide examples of how the new controls work in different areas.
3. Concerns regarding how the new controls apply to alterations and additions.	<ul style="list-style-type: none"> • Practitioners to provide examples.
Maximum floorplate: 165%	
4. Query merit of 165% control (a hidden FSR control), which can conflict with the building envelope.	<ul style="list-style-type: none"> • Council staff to identify exemplar dwellings, and identify how these would compare to the new controls.
5. Building envelopes are more appropriate than an FSR control.	
6. 165% penalises flat sites, which cannot benefit as a sloping site.	<ul style="list-style-type: none"> • Staff to consider
7. Query whether the formula works on smaller sites.	<ul style="list-style-type: none"> • Practitioners to provide examples of how the new controls work on small sites.
8. Reintroduce FSR control – provides more certainty and can be tailored for localities	<ul style="list-style-type: none"> • Noted

9. The term "levels" should be defined more clearly to assist with interpretation of 165%.	<ul style="list-style-type: none"> • Staff to consider
Excavation	
10. Concerns regarding the controls minimising excavation, when additional excavation can create more sustainable outcomes.	<ul style="list-style-type: none"> • Practitioners to provide examples of large scale excavation creating more sustainable outcomes.
11. Controls regarding excavation should be more flexible to allow zero side setbacks, providing these can be independently verified by engineers.	<ul style="list-style-type: none"> • Practitioners to provide exemplar examples of how excavation is managed when close to adjoining boundaries. • Staff to consider how excavation is managed after development approval is given, and within statutory framework.
12. Potential excavation impacts can be negotiated between landowners.	<ul style="list-style-type: none"> • Council is required to consider environmental impacts at DA assessment stage.
<ul style="list-style-type: none"> • Next meeting – 13 October at 4pm 	<ul style="list-style-type: none"> • Practitioners to circulate examples prior to the meeting.

MINUTES Draft

DCP2015 CHAPTER B3 REVIEW WORKING PARTY WORKSHOP 2

13 October 2015
(Meeting commenced 4pm)

<p><u>Attendees:</u> George Karavanas GK Chris Howe CH Alec Tzannes AT Rod Simpson RS</p> <p><u>Apologies:</u> Cr James Keulemans Bruce Stafford</p>	<p><u>Councillors:</u> Cr Ted Bennett Cr TB</p> <p><u>Council Staff:</u> Allan Coker AC Chris Bluett CB Tom Jones TJ Jorge Alvarez JA Brendan Metcalfe BM Kira Green KG</p>
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Power point presentations	Action/Comments
Presentation of examples	
George Karavanas	
<p>1. GK presented 106 Wolseley Road, Point Piper. This waterfront house was non-compliant with the WLEP 1995 FSR controls. The building is the subject of an alteration and addition DA. GK was concerned by the lack of flexibility regarding the new controls feeling that the site context would support a greater building bulk.</p>	<ul style="list-style-type: none"> • AC asked if GK could isolate the particular issue regarding the current control set. • AT pointed out that this suggested that different yields are appropriate in different locations.
<p>2. GK presents 1 Clairvaux Road, Vaucluse. A large site being subdivided and redeveloped. Building envelopes for the sites are illustrated. Because it is a corner site there is concern as to which street is the front. There is a concern that the location of the front setback impacts on the site yield.</p>	<ul style="list-style-type: none"> • RS so we are discussing the definition of the front setback. • GK comments that you almost need to design the building before you can determine the yield.

Alec Tzannes	
3. AT shows the Nursey residence in Paddington. Significant excavation from boundary to boundary. Can be achieved with security regarding structural stability of adjoining properties and significant sustainability returns. This is an infill building crossing a watercourse in the Paddington conservation area. The site is small. Building envelopes are more appropriate than an FSR control.	•
4. AT illustrates a large residential property with attached tennis court which has been extensively excavated into sand. The site appears to be almost totally developed and have minimal deep soil.	<ul style="list-style-type: none"> • AT I am risk adverse, what I am suggesting is that buildings are required to meet strict requirements. If land is used efficiently developed and the building well designed it is less likely to have a short life span or to fail.
5. AT illustrates a number of other projects including St Catherine's School.	<ul style="list-style-type: none"> • RS if zero impact on amenity and context why not allow more excavation. But let's put this excavation discussion aside for the present and look at the building envelope. • AT I am addressing point 10 in the minutes. There are companies that produce the energy credentials of a building across their total life cycle. • CB we can look at the issues but cannot mandate beyond BASIX. • AT Awarded building could not be built under the current controls. Is that a good outcome? The hidden cost of compliance is lost opportunities. • AC The controls cannot fix existing problems. Council have effectively thrown away the FSR controls on Wolseley Road.
Nick Economou/Tom Jones	
Exemplar examples provided by assessment team	
6. 25 Wentworth Avenue, Vaucluse is built on a very steep triangular site on the edge of a gully. Challenging site to produce a definitive envelope.	<ul style="list-style-type: none"> • NE 0.74:1 as approved • TJ The BECs produce a yield that is appropriate to the site
7. 29 Vaucluse Road site sits up above the road but is splayed at front	<ul style="list-style-type: none"> • TJ Odd site shape would distort the FSR that would apply. Complex to calculate buildable area. • NE concern that the envelope does not reflect the rear setback of adjoining properties. • GK the FSR was in the high 7s

<p>8. 108 Wolsley Road is on a site where there is a battle axe lot beyond which truncates the site. The building on the site sits outside the envelope and is on three storeys.</p>	<ul style="list-style-type: none"> • TK The building occupies the envelope and more. • AC in a contextual sense is the result a good outcome? • GK Yes. • AC In this location the FSR had effectively been thrown out. • TJ The FSR is over 1.0:1
<p>9. Summary of issues raised</p> <ul style="list-style-type: none"> • Building envelope relates to site size • Unfamiliar control vocabulary • Floorplate control is quasi FSR • Yield dependent on precise calculations • Site shape can affect yield • Building depth may disrupt established rear setback pattern • Increased assessment time • Difficult for applicants and staff • Assessment staff not confident with control set 	<ul style="list-style-type: none"> • CH the issue raised at the last meeting was, should the same FSR apply across the Municipality. • AC we need to come back to that question. • Regard the total floor plate which is a quasi FSR there is concern that in court this control could be considered invalid since it is not in the LEP. • AC we are also concerned that the envelope controls will increase assessment time. • AC we need to get practitioners thoughts and all the issues on the table. • CH I totally agree with the summary. Important that the wider community can understand the controls.
<p>10. General discussion</p>	<ul style="list-style-type: none"> • Cr TB the question is agreed what is the answer though? • CH Council to come back to next meeting with options Strategic planning are the people who should be doing this. • RS The Council controls are trying to be as contextual as possible. There is a pressure between applying generalised controls to complex urban areas. The Standard Instrument in my opinion is at odds with contextualism. This also goes to the effect of excavation which we will return to. • GK FSR is easy, is it the right way? Probably not, what if we just fill the envelope? • CH I am not suggesting we abandon envelopes.

<p>11. What next?</p>	<ul style="list-style-type: none"> • AC Between now and the next meeting we will develop the options. • Cr TB can we have input from the practitioners as well. • CH Looked at difficulties of irregular sites. Haven't taken the standard rectangular sites, look at the more regular sites as well. I'd like to suggest if we could have at the next meeting some regular sites (5 or 6) that we could look at. Solar access and views. Orientated north/south and east/west. • AT can you restate your principle objectives for the controls. I don't consider the controls to be too complex. • AC we want a control set that produces good results on the ground but is also easy to work with • CH Both council and practitioners should provide exemplar examples. • AT A plea that Council requires the applicant to demonstrate through due process the case for a development. This way the controls could provide both opportunity and responsibility for the applicant.
<p><i>Meeting closed 6.05pm</i></p>	
<ul style="list-style-type: none"> • Next meeting - Thursday 5 November at 4pm 	<ul style="list-style-type: none"> • Practitioners to circulate examples prior to the meeting.

Annexure 2

Woollahra Municipal Council
Urban Planning Committee Agenda

29 February 2016

Item No: R2 Recommendation to Council
Subject: **SECOND PROGRESS REPORT ON THE WOOLLAHRA DCP 2015 WORKING PARTY MEETINGS**
Author: Anne White, Acting Team Leader - Strategic Planning
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 16/19583
Reason for Report: To provide a progress report on the latest meetings of the working party established to review Chapter B3 General Development Controls of the Woollahra DCP 2015.

Recommendation

THAT the overview of the Woollahra DCP 2015 Working Party meetings held on 5 November 2015 and 3 February 2016 is received and noted.

1. Background

On 27 April 2015, Council resolved the following:

- A. *That the Woollahra Development Control Plan 2015 (version dated 13 April 2015) be adopted by Council, subject to the following:*
- (i) *to (xvi)*
- B. *That Council establish a working party to review Chapter B3 General Development Controls, in particular controls relating to building bulk, scale, envelope, floorplates, setbacks and site excavation, and any other DCP controls that the working party believe are necessary to review and amend to enable a high level of architectural quality, built form and environmental amenity to be achieved within the municipality; and*
- (i) *The Working Party include representatives from design and planning organisation practicing in the municipality as appointed by the Mayor;*
 - (ii) *Council staff regularly report on the progress and any recommendations from the Working Party to the Urban Planning Committee.*
 - (iii) *The review and recommendations of the Working Party be reported to the Urban Planning Committee within four (4) months from the date that the Development Control Plan comes into effect.*
- C. *That the working party referred to in B above also consider and review the minimum lot widths for:*
- *Detached dual occupancies;*
 - *Attached dwellings and*
 - *Residential flat buildings or multi dwelling housing containing four or more dwellings, in conjunction with the relevant minimum lot size controls in the Woollahra Local Environmental Plan 2014.*

In response, a working party was established to review Chapter B3 General Development Controls in the Woollahra Development Control Plan 2015 (Woollahra DCP 2015). An overview of the first two meetings (held on 15 September 2015 and 13 October 2015) was reported to the Urban Planning Committee on 19 October 2015 (see **Annexure 1**). In summary, at these meetings the following themes were discussed:

Workshop Meeting	Theme
1. 15 September 2015	Discussions regarding a range of concerns with the existing controls in Chapter B3 including: <ul style="list-style-type: none"> • Overall approach and appropriateness of the controls • Concerns using the floorplate control • Concerns regarding the stringency of the excavation controls.
2. 13 October 2015	<ul style="list-style-type: none"> • The practical application of the building envelope and excavation controls. • Presentations were made by both practitioners and staff on the complexities of applying the controls.

2. Progress overview

The third working party meeting was held on 5 November 2015 and was attended by three practitioners, one Councillor, an independent expert and six members of staff. The minutes of this meeting are attached (**Annexure 2**).

At this meeting the discussion focused on the practitioners concerns with the use of the floorplate control. The floorplate control applies to dwelling houses, semi-detached dwellings and dual occupancies, and is used instead of a floor space ratio control. In response to the practitioner concerns, Council officers presented three potential control sets. The three options and the responses from the working party are identified in the table below.

Option	Working party response
<ul style="list-style-type: none"> • Option 1: Retain existing control set (including the floorplate control) 	There was no support from either staff or practitioners to retain the floorplate control.
<ul style="list-style-type: none"> • Option 2: Delete floorplate control and replace with a floor space ratio control • Insert floor space ratio control in the Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014) • Retain the building envelope in the Woollahra DCP 2015 	There was some support from the practitioners to insert an FSR control to control building bulk. However, the practitioners requested that if an FSR control is introduced, it should be varied based on precinct character.
<ul style="list-style-type: none"> • Option 3: Delete floorplate and investigate alternative controls • Delete floorplate control and replace with alternative controls in Woollahra DCP 2015 • Retain the building envelope in the Woollahra DCP 2015 	Overall the practitioners identified this option as the preferred approach. The practitioners requested staff to further investigate this option, and identify the potential "alternative" controls.

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The fourth working party meeting was held on 3 February 2016 and was attended by four practitioners, an independent expert and six members of staff. The minutes of this meeting are attached (**Annexure 3**).

In the course of investigating **Option 3**, Council officers researched the controls used in other Sydney metropolitan Councils. As a consequence of this research, it was noted that the majority of Councils use FSR to control building bulk for all types of residential accommodation. In particular, staff identified that both Randwick and Waverley Council use FSR in the R2 Low Density Residential zones. Both Councils use a floor space ratio control of 0.5:1 in their local environmental plans. A summary of this research was presented to the working party.

In order to progress **Option 3**, staff proposed deleting the floorplate control and replacing it with a site coverage control in the Woollahra DCP 2015. This approach is already used in other Council's such as North Sydney. A site coverage control is expressed as a percentage of the site area. Site coverage is defined in the standard instrument as:

Site coverage means the proportion of a site covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- a) Any basement
- b) Any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary.
- c) Any eaves.
- d) Unenclosed balconies, decks, pergolas and the like.

In response to staff's presentation, and consistent with the approach used by both Randwick and Waverley Council, there was overall support for further investigating the use of an FSR control in the Woollahra LEP 2014. However, the working party is seeking an urgent amendment to the control set to address their concerns. Due to the complexities of amending the LEP, the insertion of a floor space ratio control could take six to 12 months to implement. Therefore, the working party recommended further investigation and refinement of **Option 3** by inserting a site coverage control into the DCP as a short term solution. This can pre-empt the future introduction of a floor space ratio control in the Woollahra LEP 2014.

It was agreed that at the next meeting on 2 March 2016, the working party will discuss the refinement of the site coverage approach. It was also agreed that staff would present a response to the practitioner's concerns with the stringency of the excavation controls. This response will take into account the following action from the *Delivery Program 2013-2017 and Operational Plan 2015/16* (DPOP):

- 4.1.1.18: Review Residential DCP 2015 car parking standards to consider changing maximum rates to minimum rates; in conjunction, consider the need to change excavation controls to accommodate minimum rates (NOM 10 August 2015).

At a future meeting of the working party, staff will present a response to the following DPOP action:

- 4.1.1.20..... Review minimum lot widths for various types of residential buildings

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3. Conclusion

The working party has continued to review the approach to the building envelope controls, and has identified a potential solution to replace the floorplate control. Comparison with controls used in other Councils has formed part of this review process, in particular the approach to controlling building bulk by Randwick and Waverley Council. However, further consideration and testing is required before a final recommendation of the preferred approach is identified.

Annexures

1. Report to the UPC meeting of 19 October 2015
2. Minutes of the Working Party meeting held on 5 November 2015
3. Minutes of the Working Party meeting held on 3 February 2016

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19 October 2015

Item No: R1 Recommendation to Council
Subject: **PROGRESS REPORT ON THE WOOLLAHRA DCP 2015
WORKING PARTY MEETINGS**
Author: Tom Jones, Urban Design Planner
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 15/145726
Reason for Report: To provide a progress report on the meetings of the working party established to review Chapter B3 of the Woollahra DCP 2015.

Recommendation:

That Council receive and note the report in relation to the meetings of the working party established to review Chapter B3 of the Woollahra DCP 2015.

I. Background

Council, on 27 April 2015, resolved:

- A. That the Woollahra Development Control Plan 2015 (version dated 13 April 2015) be adopted by Council, subject to the following:
 - (i) to (xvi)
- B. That Council establish a working party to review Chapter B3 General Development Controls, in particular controls relating to building bulk, scale, envelope, floorplates, setbacks and site excavation, and any other DCP controls that the working party believe are necessary to review and amend to enable a high level of architectural quality, built form and environmental amenity to be achieved within the municipality; and
 - (i) The Working Party include representatives from design and planning organisation practicing in the municipality as appointed by the Mayor;
 - (ii) Council staff regularly report on the progress and any recommendations from the Working Party to the Urban Planning Committee;
 - (iii) The review and recommendations of the Working Party be reported to the Urban Planning Committee within four (4) months from the date that the Development Control Plan comes into effect.
- C. That the working party referred to in B above also consider and review the minimum lot widths for:
 - (i) Detached dual occupancies;
 - (ii) Attached dwellings and
 - (iii) Residential flat buildings or multi dwelling housing containing four or more dwellings, in conjunction with the relevant minimum lot size controls in the Woollahra Local Environmental Plan 2014.

On 3 August 2015, Council adopted the following notice of motion:

THAT the working party which will be established in response to Council's resolution of 27 April 2015 also consider the merit of changing the maximum residential car parking standards contained in chapter E1.4.2 of the Woollahra Development Control Plan 2015 to

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minimum standards and also consider if the excavation controls contained in chapter B3.4 of the DCP should be changed to accommodate this change.

2. Establishment of the working party

The Mayor, Councillor Zeltzer, in accordance with part B(i) of the resolution of 27 April 2015, appointed the following people to the working party:

Chair: Cr Ted Bennett
Councillor: Cr James Keulemans
Architects: Chris Howe
Bruce Stafford
Alec Tzannes
Planners: George Karavanas (Gary Shields and Associates)
Independent: Rod Simpson, architect/urban designer, (Sydney University)

2. Progress overview

The working party has held meetings on 15 September 2015 and 13 October 2015. Both meetings were at the Council Chambers and chaired by Councillor Ted Bennett.

The first meeting was attended by four practitioners, four staff and two Councillors. The second meeting was attended by three practitioners, five members of staff, a councillor and an independent expert. The minutes of the meetings are attached (**Annexure 1 and Annexure 2**). The second meeting minutes have not been adopted by the working party.

At the first meeting the working party discussed a range of matters that fell into three categories:

1. The overall approach to the controls – the appropriateness of using the same set of building envelope controls for a large part of the municipality in which there are different natural and built conditions.
2. The maximum floorplate control - the merit of using a maximum floorplate control of 165% compared with the previous floor space ratio controls.
3. Excavation – the stringency of the excavation controls and the potential to allow more flexibility.

The second meeting focussed on the practical application of the building envelope and excavation controls. Presentations illustrated by examples of approved and constructed buildings were made by the practitioners and Council staff.

Although progress has been made with the review of chapter B3, the working party is not in a position to make any specific recommendations at present. The working party is still to discuss certain aspects of the issues raised in parts B and C of the Council's decision.

It was agreed that the next meeting, to be held on 5 November, will discuss options for a preferred set of controls.

3. Conclusion:

The working party has identified a range of matters which have been informed by the practical use of the new building envelope controls by Council planners and external professionals. Comparison with the previous set of controls has formed part of the review process.

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The working party will continue to examine the controls as required by the Council's decision. All suggested changes will need to be rigorously tested before firm recommendations are made to the Council.

Annexures

1. Building Envelope Controls - Workshop 1 - 15 September 2015 - Minutes
2. Building Envelope Controls - Workshop 2 - 13 October 2015 - Minutes

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DCP2015 CHAPTER B3 REVIEW WORKING PARTY WORKSHOP 3

5 November 2015
(Meeting commenced 4pm)

<p><u>Attendees:</u> George Karavanas Bruce Stafford Rod Simpson Alec Tzannes</p> <p><u>Councillors:</u> Cr James Keulemans</p>	<p><u>Council Staff:</u> Allan Coker Chris Bluett Nick Economou Anne White Tom Jones Jorge Alvarez</p> <p><u>Apologies:</u> Cr Ted Bennett Chris Howe Brendan Metcalfe</p>
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Issues raised	Action/Response
1. Minutes of the previous meeting	<ul style="list-style-type: none"> Previous minutes adopted
Preliminary discussion	
2. Practitioners raised the issue of incorporating "equity" for development potential in the DCP controls. 3. Practitioners commented that the controls should provide a greater emphasis on the impact of private development on the public domain.	<ul style="list-style-type: none"> Staff to consider how the issue of equity can be incorporated into the controls. Staff to consider controls to place a greater emphasis on the impact of private development on the public domain.
Presentation from Council staff	
4. A presentation was made by Council staff that incorporated the outcomes of the working party. The presentation included: <ul style="list-style-type: none"> Outcome objectives of DCP controls Process objectives of working party 3 options for the future of development controls in Woollahra, as listed below. 	<ul style="list-style-type: none"> Staff to forward presentation and minutes to CH to circulate to practitioner group.

Issues raised	Action/Response
<p>5. Option 1: Retain existing control set</p> <ul style="list-style-type: none"> Issues with the existing controls are clearly understood. They are considered difficult to interpret. However, they have had the positive outcome of allowing development assessment planners to enforce a numerical standard for floor plate, stopping the progression of additional development size by steal. A possible means of enhancing the ease of using these controls is to commission an electronic software tool to make interpretation easier. This could be made available online. 	<ul style="list-style-type: none"> Staff to note that retaining the existing control set is not a preferred option for the practitioners in attendance. Noted.
<p>6. Option 2: FSR and height in LEP + setbacks in DCP</p> <ul style="list-style-type: none"> FSR is universally used and understood, however, it is not a design tool, just a density control tool. Consequently, this option is considered the "easiest" option for developers and the public to understand, particularly in considering development potential. A number of detailed questions were raised about this option, such as varying FSRs across the LGA. The fine grain details would only be examined if this option was chosen as preferred option. 	<ul style="list-style-type: none"> Staff to note that option 2 was considered to have some positive merits, but was not the preferred option for the practitioners in attendance. Staff to note that if an FSR control is introduced, it should vary by character precinct.
<p>7. Option 3: Height in LEP + BEC without floorplate in DCP</p> <ul style="list-style-type: none"> A building envelope would avert the need for FSR. However, very specific ancillary controls are required to ensure good design outcomes. The danger of this option is developers wanting to "fill the building envelope". It is difficult for development assessment officers to refuse an application based on "design" controls. 	<ul style="list-style-type: none"> Staff to note that for the attendees, option 3 was agreed to be the preferred option by practitioners.
<p>8. What is best practice?</p> <ul style="list-style-type: none"> NSW planning framework is very legalistic and different to many other comparable jurisdictions. In many developed nations, an expensive, fine grained approach is adopted. Case studies examples of Forest Hills, NY suggested to inform future policy for treatment of the public domain. 	<ul style="list-style-type: none"> Staff to note and research examples of exemplar public domain outcomes such as Forest Hills, NY.
<p>9. Next steps</p>	<ul style="list-style-type: none"> Staff to investigate option 3 controls within a precinct, and report back to the next meeting with potential new controls for discussion.
<p>Next meeting Wednesday, 3 February 2016 4pm (Thornton Room)</p>	

MINUTES

DCP2015 CHAPTER B3 REVIEW WORKING PARTY WORKSHOP 4

3 February 2016
(Meeting commenced 4pm)

<p><u>Attendees:</u> Rod Simpson George Karavanas Bruce Stafford Alec Tzannes Chris Howe</p> <p><u>Apologies:</u> Cr Ted Bennett Cr James Keulemans Nick Economou</p>	<p><u>Council Staff:</u> Allan Coker Chris Bluett Anne White Tom Jones Jorge Alvarez Brendan Metcalfe</p>
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Issues raised	Action/Response
<p>1. Minutes of the previous meeting</p> <p>Preliminary discussion</p>	<ul style="list-style-type: none"> • Previous minutes adopted
<p>2. Introduction by Allan Coker</p> <p>Presentation from Council staff</p>	
<p>3. A presentation was made by Council staff that was in response to issues raised at the previous working party and included:</p> <ul style="list-style-type: none"> • Summary of research into controls used in other Sydney Metropolitan Councils <ul style="list-style-type: none"> — North Sydney and Pittwater have no FSR — The floorplate control is unique to Woollahra — North Sydney and Randwick use a site coverage control 	<ul style="list-style-type: none"> • Staff to forward presentation and minutes to CH to circulate to practitioner group.
<p>4. Option (2): Delete floorplate and replace with FSR control in WLEP 2014</p> <ul style="list-style-type: none"> • Staff presented a summary of the Randwick and Waverley approach: <ul style="list-style-type: none"> — Randwick and Waverley both use similar approaches to control building bulk in R2 Low Density Residential zones: — Primary control 0.5:1 FSR (LEP Standard Instrument definition) 	

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Issues raised	Action/Response
<p>5. Option (3): Delete floorplate and investigate site coverage control</p> <ul style="list-style-type: none"> Staff presented on the possibility of using a site coverage control. For example, 30%. Similar to the approach used in North Sydney. Control can be varied based on: <ul style="list-style-type: none"> Land use e.g. dwelling or swimming pool Precinct Lot size The controls tested would allow variations outside the building envelope where amenity of surrounding development is improved Site cover tested in three streets in Rose Bay Some practitioners identified that there needed to be an urgent amendment to the control set. This could involve a two staged approach by amending the DCP in the short-term and then establishing FSRs in the LEP over the longer term. 	<ul style="list-style-type: none"> Staff noted the support for the site coverage control (subject to refinement). Staff to consider amendments to the DCP as a short term solution. This can then inform a future review of the FSR control as part of the two staged approach.
<p>6. Recommendation</p> <ul style="list-style-type: none"> Staff recommended that Option 2: Delete floorplate and replace with FSR control in WLEP 2014 is preferred Next steps would be to <ul style="list-style-type: none"> Investigate FSR control (using SI definition of GFA) Investigate precinct variations Make recommendation to Council committee If adopted, make LEP and DCP amendments Practitioners requested further emphasis on 'design excellence'. Design excellence should be addressed up front in the DCP. The controls should be based on these principles. Practitioners suggested that in some cases applicants could pay for a peer review. Rod Simpson cautioned over reliance on the concept of design excellence clauses. 	<ul style="list-style-type: none"> Staff noted the support for further investigating option 2, including a precinct based FSR control. Staff to consider the concept of design excellence and how it can be incorporated into the DCP. Staff to consider the design quality principles raised in SEPP 65. Staff to consider that the desired environmental outcome should drive controls e.g. amount of deep soil landscaping.
<p>7. Other business</p> <ul style="list-style-type: none"> It was noted that the outstanding notices of motions relating to excavation and minimum lot sizes would be discussed at a future meeting of the working party. 	<ul style="list-style-type: none"> Practitioners to provide five examples of DAs where excavation controls have been an issue.
<p>8. Next steps</p>	<ul style="list-style-type: none"> Practitioners to convene a meeting of their members, at which they will discuss Council's presentation. Chris Howe to provide a formal group response on the recommendations presented at the workshop. Staff to consider practitioner response in finalising the agenda for the next meeting.
<p>Next meeting Wednesday, 2 March 2016 4pm (Council Chambers)</p>	

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WORKSHOP 5

2 March 2016
(Meeting commenced 4pm)

Councillors Cr Ted Bennett	Practitioners Chris Howe Bruce Stafford Alec Tzannes George Karavanas	Council Staff Allan Coker Chris Bluett Nick Economou Anne White Tom Jones Jorge Alvarez	Apologies Brendan Metcalfe Cr James Keulemans
Independent advisor Rod Simpson			

Issues raised	Action/Response
1. Apologies	<ul style="list-style-type: none"> See above
2. Minutes of the last meeting	
AC update: Progress of workshops was presented to UPC on Monday night. Some Councillors raised concerns as to whether the broader group of practitioners are adequately represented by the attendees of the working party.	<ul style="list-style-type: none"> Minutes adopted CH stated that the wider practitioner group are adequately represented
3. Proposed controls	
<p>Replace floorplate with a footprint control</p> <ul style="list-style-type: none"> Footprint is the area covered by the dwelling Propose sliding scale related to lot size, and precinct character Additional 20sqm footprint allowance for car parking within the building envelope (to encourage garaging within the dwelling) <p>Discussion</p> <ul style="list-style-type: none"> Practitioners do not support 450mm allowance for eaves. Control could discourage cantilevered roofs, wide eaves and awnings as sun protection devices. Definition and intent of this allowance needs to be clearly explained, or removed. Proposed diagrams, do they help or hinder explanation of concepts? 	<ul style="list-style-type: none"> TJ to investigate eave allowance TJ to investigate use of diagrams
<p>Side setbacks for dwellings</p> <ul style="list-style-type: none"> Sliding scale side setback replaced by simplified table <p>Discussion</p> <ul style="list-style-type: none"> Practitioners requested greater flexibility in side setback if a better design/amenity/ environment outcome can be achieved 	<ul style="list-style-type: none"> Staff to consider controls to allow flexibility in side setbacks
<p>Side setbacks for RFBs</p> <ul style="list-style-type: none"> Set at 1.5m (where SEPP 65 does not apply) <p>Discussion</p> <ul style="list-style-type: none"> Practitioners questioned why side setbacks for RFBs are different. Staff responded that they are smaller to encourage denser development in identified locations. Most DAs for RFBs are not subject to SEPP 65. 	<ul style="list-style-type: none"> Staff to review how SEPP 65 applies/ overrides controls
<p>Replace site depth control with fixed rear setback</p> <ul style="list-style-type: none"> Rear setback to be fixed 25% of site depth 	<ul style="list-style-type: none"> Staff to consider controls to allow flexibility in rear

Issues raised	Action/Response
<p>Discussion</p> <ul style="list-style-type: none"> Practitioners requested greater flexibility in rear setback if a better design/amenity/ environment outcome can be achieved 	<p>setbacks</p>
<p>Amend deep soil landscape area control</p> <ul style="list-style-type: none"> Deep soil landscape area to be reduced to 40% of site area to relate to proposed footprint control <p>Discussion</p> <ul style="list-style-type: none"> Practitioners requested consideration as to relative importance of deep soil zone and car parking 	<ul style="list-style-type: none"> Staff to consider relationship of the controls
<p>Variations and flexibility in controls – general discussion</p> <ul style="list-style-type: none"> Variations are supported by Council in principle, but have found that often arguments by applicants that variations lead to better outcomes are not justified. 	<ul style="list-style-type: none"> Staff to consider how flexibility can be incorporated into controls
<p>4. Revised aims and objectives</p>	
<p>Aims and objectives developed by practitioners group. Recommend upfront statement of intent of DCP to encourage design excellence, contemporary and innovation and conservation. Inspired by best planning instruments, such as former Double Bay DCP.</p> <p>Discussion</p> <ul style="list-style-type: none"> Staff identified that many of these objectives are already contained in the relevant sections of the DCP, except "design excellence." Staff questioned how the objectives would fit into the existing DCP? Would they hold greater status/weighting? Would they override other controls? Suggestion that the proposed objectives could emphasis/draw together a number of controls throughout DCP, which would encourage design excellence. The general DE principles include: <ul style="list-style-type: none"> Environmental Performance Character Respect for cultural heritage Respect for the Natural environment Respect for the Neighbours Public Domain Applicants would need to prove the principles were met, or justify why have aren't met. This supports Council assessment. 	<ul style="list-style-type: none"> Presentation by CH Practitioners and staff to consider how the proposed objectives (or vision statement) could be incorporated into the DCP
<p>5. Excavation examples</p>	
<ul style="list-style-type: none"> Presentation by CH on proposed amendments to excavation controls and houses at 25 Hopetoun Ave and 6 Dumaresq Street, where non-complying excavation work achieved good environmental outcomes Proposed controls aim to allow greater excavation, and to ensure desirable outcomes by improving geotechnical assessment process, including ensuring minimising carbon impact of excavation Seek removal of volumetric controls to a more merit based allowance. Recommendation that Council adopt a geotechnical reporting policy, similar to that of Pittwater Council <p>Discussion</p> <ul style="list-style-type: none"> Council is seeking to balance excavation demands with community expectations. For example issues regarding noise and vibration and heavy vehicles on local roads Council cannot mandate sustainability controls more onerous than BASiX requirements. Therefore, staff and practitioners do not support more stringent excavation controls. 	<ul style="list-style-type: none"> Council staff to discuss Pittwater Model internally and report back. CH to ask geotechnical consultants if they will discuss approach with AC.
<p>6. Other business</p>	
<p>None</p>	
<p>Next meeting – Thursday 21 April, 4pm</p>	

MINUTES Annexure 4
DCP2015 CHAPTER B3 REVIEW WORKING PARTY
WORKSHOP 6

21 April 2016
(Meeting commenced 4pm)

Councillors Cr Ted Bennett Cr James Keulemans	Practitioners Chris Howe Bruce Stafford Alec Tzannes George Karavanas	Council Staff Allan Coker Chris Bluett Nick Economou Anne White Tom Jones Jorge Alvarez	Apologies Brendan Metcalfe
Independent advisor Rod Simpson			

Issues raised	Action/Response
1. Apologies	See above
2. Minutes of the last meeting	Minutes tabled and adopted
A draft copy of Chapter B3 was circulated prior to the meeting	
3. Objectives of the DCP/Chapter B3	
Staff presented proposed objectives to Ch B3. Objectives reworded to promote design excellence (DE) and respond to practitioners concerns. <ul style="list-style-type: none"> • Practitioners suggested the following amendments: <ul style="list-style-type: none"> ○ Objective O3 – replace word “accommodate” with “encourage”. ○ Objective O5 – replace word “negative” with “adverse”. • Practitioners requested an overarching statement referring to “variations”. Where an applicant can meet the objectives and demonstrate a better environmental outcome. • In response to practitioners comments, staff confirmed the following: <ul style="list-style-type: none"> ○ Council can request a peer review of a DA assessment. Council will consider inserting a statement in the DCP informing applicants that a peer review process is available.	<ul style="list-style-type: none"> • Council staff to consider amendments as requested • Practitioners to provide feedback on objectives within 2 weeks
4. Variations (based on the Pittwater model)	
Variations in controls for site conditions Staff presented their view that the Pittwater model not appropriate for WDCP as: <ul style="list-style-type: none"> • Variations are overly prescriptive • Existing controls allow greater flexibility than specific variation mentioned in PDCP. Some practitioners raised concerns that good design outcomes can only be achieved using more flexible controls.	
Geotechnical controls Staff presented their view that the Pittwater model is not appropriate for WDCP as controls are focussed on risk management rather than broader amenity considerations. Practitioners recommend amending excavation objectives to address ESD, risk management and public domain outcomes. For example, short term amenity loss such as noise and dust should be weighed off against long term ESD wins, such as reduced energy use.	<ul style="list-style-type: none"> • CH to provide emerging data including legal opinion on the matter of roads
5. Excavation	
Staff reiterated that due to amenity impacts, previous Councils have sought to reduce the quantity of excavation in the LGA. Staff presented a comparison of the existing excavation controls for dwelling houses/residential flat buildings, and a similar trend line of volumetric excavation quantities on recent DAs. Staff stated that this indicates that the excavation controls are achievable and are working effectively.	

Issues raised	Action/Response
<ul style="list-style-type: none"> • Practitioners responded that: <ul style="list-style-type: none"> ○ No guarantee that the built form is the most appropriate result for the site. ○ Controls are overly onerous, ○ Volumetric controls are not defensible in court. • Practitioners do not support Objective 4 of B3.4 Excavation section "To minimise energy expenditure associated with excavation and traffic emissions from truck movements". • RS stated that the multiple issues associated with excavation need to be untangled. <ul style="list-style-type: none"> ○ ESD argument is marginal with no major impacts. It can be difficult and expensive to prove. Issue of energy should be removed from the control set. ○ Risk management is a technical issue in terms of assessment. Some elements such as impacts on road network are difficult to prove. ○ To respond to amenity considerations, the opportunity to vary the control is already contained in the DCP control set. • Staff identified that the ESD benefits are not relevant to the existing volumetric controls. The controls focus mostly on amenity and to a lesser extent on risk management. • Group agreed that an infrastructure levy to mitigate damage of roads etc. from trucks would be impractical as a nexus is very difficult to establish. • CH requested a further meeting to discuss issues associated with excavation. 	<ul style="list-style-type: none"> • CH to provide example of alternative excavation controls • Staff to consider proposed amendments and if a further meeting is required
6. Residential car parking standards	
<p>Merit of changing maximums to minimums Staff presented opposition to changing the maximum car parking standards to minimum due to amenity impacts including increased car ownership, additional noise and traffic congestion, increased air pollution, increased carbon emissions and discouraging public transport and active transport modes.</p> <ul style="list-style-type: none"> • CH claimed the arguments are weak because WMC does not have good public transport. • JK stated controls should be minimum to allow people to have as many cars as they want. • RS stated a coordinated and holistic policy is required where there is a maximum control and limited on-street parking. Returning to a minimum control is a retrograde step. People have the choice to live where they do, but are aware of the parking situation. However, different rates should apply in different areas e.g. relating to public transport. • Staff supported this approach. Good examples include Paddington and Watsons Bay, two sought-after areas where people choose to live despite lack of parking. • TB stated the controls were introduced to reduce excavation. This was disputed by staff. 	
7. Minimum lot widths (presentation by staff)	
<p>Staff summarised the current minimum lot width controls. In particular, that the controls related to basement parking size.</p> <ul style="list-style-type: none"> • Practitioners raised concerns that the controls ignore lot length. That more contextual controls are required and controls should respond to amenity considerations e.g. for east-west orientated sites. 	
8. Draft Chapter B3 General Development Controls	
<ul style="list-style-type: none"> • Staff presented a summary of the main changes to Chapter B3, and requested that any feedback be submitted to Council staff by 6 May 2016. 	<ul style="list-style-type: none"> • CH to arrange practitioner meeting to provide feedback
9. Other business	
No issues raised	
10. Next steps	
Council staff to consider feedback, and if a further meeting is required.	

MINUTES Annexure 5

DCP2015 CHAPTER B3 REVIEW WORKING PARTY WORKSHOP 7

4 August 2016
(Meeting commenced 4pm)

Councillors Cr Ted Bennett Cr Andrew Petrie (AP)	Practitioners Group Bruce Stafford Alec Tzannes (AT) George Karavanas	Council Staff Allan Coker Chris Bluett Nick Economou Tom Jones Jorge Alvarez	Apologies Cr James Keulemans Chris Howe Rod Simpson Anne White
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Issues raised	Action/Response
1. Apologies	See above
2. Minutes of the last meeting	
<ul style="list-style-type: none"> • A draft copy of Chapter B3 was circulated prior to the meeting. • Practitioners sent a response email challenging the accuracy of the minutes (dated 10 June 2016). • Staff asked for clarification as to whether practitioners were requesting a change to the minutes or that the meeting consider the issues raised in the response. • Practitioners agreed that they did not want to change the minutes, but to discuss issues. This occurred as part of the discussion on items including in the meeting's agenda. 	<ul style="list-style-type: none"> • Minutes tabled and adopted without amendment
3. Draft excavation controls	
<ul style="list-style-type: none"> • Staff presentation of control objectives and community concerns surrounding excavation. Community concerns include construction noise, emissions, truck movements, and the "clustering" or cumulative effect of multiple developments within proximity of each other. • Staff propose an amendment to the calculation of excavation, and cut and fill, to include all work across the entire site. The current DCP controls are ambiguous. • Staff propose amendments to the DCP. These include 2 options for consideration: <ul style="list-style-type: none"> ○ Option 1: Objectives and controls with increased allowance for volumetric controls (by adjusting the sliding scale in Figure 14 upwards) ○ Option 2: Objectives and controls (without volumetric controls) • Practitioners prefer option 2, and reasserted their belief that excavation should not be restricted by volumetric controls, but only by carefully worded objectives that address environmental outcomes and community concerns. • Practitioners also stated that they prefer no volumetric controls for RFBs and other uses (ie. no sliding scale at Figure 14 and 15). • Practitioners noted that amending the sliding scale might not increase the volumetric allowance because of the redefinition of the excavation to include all cut and fill. • Practitioners explained balancing cut and fill is generally a good development outcome. Also, minimising cut and fill is usually desirable to reduce costs, but this is not always possible in Woollahra due to steep topography. With objective based controls, an applicant would have to demonstrate a public benefit when cut and fill could not be balanced. • Practitioners stated the management of cut and fill should be an outcome objective, not a numeric control. • Staff stated that excessive excavation, including cut and fill, can result in adverse impacts – eg. basement "habitable" rooms with poor amenity (such as lack of natural light and ventilation), and modified topography (resulting in changes to local character, view loss, privacy impacts, drainage impacts etc). Additionally, the existing flexibility in the controls permits additional excavation where justified by exceptional circumstances (eg. very steep sites, car turning and forward exit 	<ul style="list-style-type: none"> • Staff to consider the amendment of the DCP excavation controls to remove volumetric controls. • Staff to consider a consistent excavation approach between types of development described in Figure 14 (dwelling houses etc) and Figure 15 (RFBs etc).

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Woollahra Municipal Council
Urban Planning Committee Agenda

31 October 2016

Issues raised	Action/Response
<p>required on major roads).</p> <ul style="list-style-type: none"> Practitioners disagree and believe good design can overcome amenity issues. Staff are mindful that controls have to address all development, not just that designed by superior designers. AP challenged the current DCP objectives, re: limit truck movement. Excavation should be permitted if it creates better design and does not create physical damage. 	
<ul style="list-style-type: none"> Practitioners suggested community concerns can be addressed and assessed by way of excavation management plan (EMPs) for DAs. Staff noted that EMPs are currently required as DA conditions if necessary, and at DA lodgement stage for larger development. Practitioners stated that they would not oppose a requirement for EMPs for all DAs at lodgement stage. Staff expressed concern about the cost and perceived "red tape" of this requirement, particularly for smaller development and "mum and dad" developers. Generally, small developers prefer to defer costs to CC stage if possible. Group discussed ideas for requirement / trigger point for EMPs, maybe a cost of work or contextual threshold (eg. near a school), and also simplified process, such as a 1 page form for small development. This requires further consideration. 	<ul style="list-style-type: none"> Staff to consider the requirement of excavation management plans for all DAs.
4. Residential car parking standards – Cardno car parking review	
<ul style="list-style-type: none"> Staff presentation focussed on maintaining current maximum car parking rates. This approach has been supported by recent independent study by consultant, Cardno. Practitioners generally opposed maximum rates and do not believe restricting on-site parking will reduce car ownership, increase public transport use or lead to additional public transport provision by government. Practitioners believe that applicants should be able to determine their own car parking provision, as long as they prove it has no amenity / environmental impacts. Staff reiterated their preference for retaining current maximum car parking rates and noted that there are provisions within the DCP which allow applicants to request additional car parking based on meeting appropriate criteria. 	<ul style="list-style-type: none"> Staff note practitioners' opposition to retaining DCP maximum car parking rates.
5. Draft Chapter B3 General Development Controls – Practitioner's response	
<ul style="list-style-type: none"> Practitioners restated their request for overarching DCP objectives addressing design excellence, not just Ch B3. PG to provide recommended wording. Practitioners recommended contacting Rob Freestone about design excellence. He is currently working on City of Sydney on this issue. AT to provide contact details. Practitioners requested staff re-forward a copy of the proposed amendment to Chapter B3 sent prior to Working Group 5. 	<ul style="list-style-type: none"> Practitioners to provide recommended wording for objectives addressing design excellence. Practitioners (AT) to provide staff with contact details for Rob Freestone. Staff to forward a copy of proposed amendments to Ch B3 to AT.
6. Other business	
<ul style="list-style-type: none"> Nil 	
7. Next steps	
<ul style="list-style-type: none"> Staff to consolidate discussions of working group, including overarching proposed objectives, into a report to Urban Planning Committee / Council. PG will have an opportunity to comment during any public consultation process. 	

Annexure 6

PROPOSED AMENDMENTS
TO CHAPTER B3
WOOLLAHRA
DEVELOPMENT CONTROL PLAN 2015

SUBMISSION PREPARED BY

EASTERN DESIGN & PLANNING
PROFESSIONAL'S ALLIANCE
(EDPPA)

10th OCTOBER 2016

EDPPA
EASTERN DESIGN & PLANNING PROFESSIONAL'S ALLIANCE
C/O HOWE ARCHITECTS P.O.BOX 622 DOUBLE BAY NSW 1360

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1. INTRODUCTION

On 27th April 2015 Woollahra Council resolved at Part A * *That the Woollahra Development Control Plan 2015 (version dated 13 April 2015) be adopted by Council, subject to ... (a number of amendments)* *

Following concerns raised by councillors, design and planning professionals practicing in the Municipality together with other submissions received during the exhibition period and at the preceding Strategic and Corporate Meeting, the resolution of Council included both a Part B and PART C as follows:

B. That Council establish a working party to review Chapter B3 General Development Controls, in particular controls relating to building bulk, scale, envelope, floorplates, setbacks and site excavation, and any other DCP controls that the working party believe are necessary to review and amend to enable a high level of architectural quality, built form and environmental amenity to be achieved within the municipality; and

(i) The Working Party include representatives from design and planning organisations practicing in the municipality as appointed by the Mayor;

(ii) Council staff regularly report on the progress and any recommendations from the Working Party to the Urban Planning Committee.

(iii) The review and recommendations of the Working Party be reported to the Urban Planning Committee within four (4) months from the date that the Development Control Plan comes into effect.

C. That the working party referred to in B above also consider and review the minimum lot widths for:

- *Detached dual occupancies;*
- *Attached dwellings and*
- *Residential flat buildings or multi dwelling housing containing four or more dwellings, in conjunction with the relevant minimum lot size controls in the Woollahra Local Environmental Plan 2014.*

The first meeting of Council's DCP Working Party commenced on 15th September 2015, and representative on the Working Party representing design and planning organisations practicing in the municipality as appointed by the Mayor included Alec Tzannes, Bruce Stafford, Chris Howe and George Karavanas.

Prior to the formation of Council's DCP Working Party, design and planning professionals practicing in the municipality formed the Eastern Design & Planning Professional's Alliance (EDPPA), an informal alliance of architects, building designers, town planners and other professionals involved in building design or town planning practicing in the eastern suburbs.

The objectives and purpose of the EDPPA is to represent and provide submissions on behalf of design and planning professionals practicing in the eastern suburbs to both local authorities and the state government on matters relating to statutory planning instruments, planning policies, or other planning instruments or policies which may potentially affect the building environment or public domain within the eastern suburbs of Sydney.

The EDPPA now consists of over 140 professionals, including representatives from a large number of the most well known and respected design and planning organisations practicing in the Woollahra Municipality.

This submission has been jointly prepared by those practitioners on the Woollahra DCP Working Party and includes previous submissions made by practitioners to the Working Party during the DCP Review Process.

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2. EXECUTIVE SUMMARY

2.1 Chapter B3 Objectives

Practitioners are in support of the need to include a set of over-arching objectives at the commencement of Chapter B3 which confirm Woollahra Council's commitment to design excellence and how design excellence will be assessed pursuant to this DCP.

Practitioners have provided at Annexure 1 suggested amendments to Section B3.1.3 DCP Objectives.

2.2 Building Setbacks

Practitioners are in support of Sections B3.2, B3.2.3 and B3.2.3, front, side and rear setbacks with a minor amendment to the side setback controls.

2.3 Wall Height & Inclined Plane

Practitioners are in general support of the objectives of the wall height and inclined plane which determines the building envelope.

However, practitioners believe that due to the controls being based upon a flat site without adjustment for sloping sites which occur frequently throughout the Municipality, the controls in their present form will be difficult to interpret or achieve on sloping sites.

Practitioners therefore believe that the controls need to be amended to allow for sloping sites before any amendments to the DCP are publicly notified.

Practitioners also note that the setback and wall height controls as expressed are unworkable in a number of situations commonly found in the Municipality including battle axe subdivisions and sites with existing conditions where variance to the setback controls on an assessment of site specific issues is in the public interest.

Accordingly, a further recommendation is for the DCP to acknowledge these situations and confirm that where an improved environmental outcome can be demonstrated to the satisfaction of Council variations to the numerical controls will be considered by Council on merit.

2.4 Building Envelope and Footprint

Practitioners are in general support of the proposal to amend the current Floor Plate objectives and controls to a set of Building Footprint objectives and controls to determine the building location and size.

However, practitioners believe that the proposed objectives:

- do not adequately address the importance of deep soil landscaping,
- that the definition of building footprint is unreasonably restrictive and will result in unintentional, unreasonably restrictive, and undesirable amenity and environmental impacts.

Practitioners have provided detailed comments and proposed amendments in this submission which are consistent with their previous submissions to the DCP Working Party.

It is the opinion of practitioners that the proposed amendments to Section B3.2.5 Wall height and inclined plane in their current form will result in similar ambiguities, conflicts, contentions and challenges as occurred with the Floorplate Controls.

Practitioners therefore believe that amendments to Section B3.2.5 need to be incorporated into the proposed DCP amendments before these are issued for public comment.

2.5 Excavation

Practitioners have been, and continue to be strongly opposed to many of the objectives relating to excavation, together with the numerical controls of Section B3.4 Excavation which limit the volume of excavation on a sliding scale.

For the reasons previously provided to the DCP Working Party, including the many case studies provided, together with the detailed comments provided in this submission, practitioners have demonstrated that;

- limiting excavation to address short term environmental impacts often results in the inability to provide higher levels of amenity, reduced environmental impact, and benefits to both the private and public domain is the longer term;
- there is no scientific or environmental basis which demonstrates that limiting excavation volumes either benefits the environment or the public in the long term, nor any evidence which demonstrates that increased excavation volumes correlates in increased risk from excavation;
- mitigation of the risks associated with excavation can be adequately and safely address by detailed geotechnical and structural controls, as demonstrated by most Councils in Sydney;
- excavation, when considered in the context of a particular development, can provide significant environmental benefits, including reduction of impacts from building bulk or scale, increasing view opportunities or solar access, allowing on-site parking, and increasing amenities for both private interests and the general public;
- excavation should be executed in a manner which does not detrimentally impact upon either significant trees, significant landscaping, significant topography, or the desired future character of the streetscape, nor limit the ability to provide deep soil landscaping

Practitioners therefore submit that the "test" of whether excavation is reasonable and permissible should be assessed against those matters identified in specific proposals as supported by documentation by each applicant.

Restricting excavation based upon a sliding scale which has little consideration for context, merit or longer term environmental benefits is flawed, as has been demonstrated in Council's inability to defend the current controls when these have been challenged.

Practitioners submit that the draft Excavation Objectives and Controls provided at Annexure 2 of this submission will mitigate and control excavation risk and impacts without compromising the ability for increasing private and public amenity, or unnecessarily and unreasonably restricting excavation volumes.

2.6 On-site Parking

Practitioners submit that there should be no restrictions on the number of on-site parking spaces provided on a particular site where the requirements of deep soil landscaping, future desired streetscape character, view and solar access, and building footprint can be achieved.

As confirmed by many residents canvassed by practitioners, residents of Woollahra are not in support of restricting on-site parking, nor are they in support of restricting excavation to allow on-site parking where the excavation does not result in an adversely impact in the long term.

Allowing on-site parking where the visual and physical impacts of car-parking on a particular site can be appropriately addressed, provides significant amenity and environmental benefits to residents and the public alike, in particular the ability to reduce private parking on suburban streets, and to retain and where circumstances allow, increasing trees and landscaping within the public domain.

Woollahra is not well serviced by public transport, has a growing vehicle ownership per household, and an increasing population.

Therefore, limiting on-site parking and excavation necessary to achieve this will only increase the propensity for cluttering our suburban streets with parked cars, with the resulting loss of streetscape quality and amenity which has occurred gradually over the last 10 years and more.

3. SECTION B3.1.3 DCP OBJECTIVES

Practitioners have consistently submitted during the DCP Review Process that the Woollahra DCP should contain a set of objectives which clearly define the overriding aims and objectives of this planning policy, by which specific objectives and prescriptive controls of each chapters of the DCP can be assessed, and which identifies the need to encourage and attain design excellence.

We are therefore encouraged that Council planning staff support our view that design excellence is a key element in achieving a high level of design quality and amenity in both the private and public domain, and that design excellence can be assessed at both a quantitative and qualitative level.

- 3.1 However while we support the inclusion of Section B3.1.3 Objectives, we believe the proposed objectives and specific text of this clause as contained in the draft amendments to *Chapter B3 General Development Controls* dated 18th April 2016 need further consideration and refinement.

We are informed by Council planning staff that they too believe that the suggested wording of Section B3.1.3 Objectives needs further refinement.

- 3.2 Therefore we include at Annexure 1 our suggested amendments to this clause (attached).

Our suggested amendments include the ability to meet the objectives of the future desired character of the area, conserve heritage, trees and significant landscaping, minimise adverse impact on landscape, topography, and neighbouring properties, and providing a high level of occupant amenity without unnecessarily limiting opportunities to encourage contemporary design, design excellence and innovation.

Consequently, we strongly promote our suggested amendments to Council.

4. SECTION B3.2 FRONT SETBACK

Practitioners agree with and support the proposed amendments to *Section B3.2 Front Setback* which are similar to the previous DCP but provide a level of design flexibility where the setback of neighbouring buildings from the front boundary are not consistent.

It is the opinion of practitioners that the environmental impacts of the proposed amendments are similar to the previous DCP and will not result in increased impact to neighbouring properties or the public domain.

5. SECTION B3.2.3 SIDE SETBACKS

Practitioners generally agree with and support the proposed amendments to *Section B3.2.3 Side Setback* subject to the qualifications provided at paragraph 2.3.

- 5.1 However, practitioners believe that the amended controls in their current format do not allow any degree of flexibility where a better environmental outcome may result if one side setback was reduced and another increased.

It is not unusual for this circumstance to occur in the Municipality, i.e.

- where one side boundary is adjacent to a road, lane or public space, and the other close to a neighbour dwelling.

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- where an existing neighbouring dwelling to the south is close to the boundary, but the one to the north some distance away, resulting even in the case of compliant setbacks, unnecessary overshadowing impact to the southerly neighbour,
- where increased amenity, including solar access or views, can be provided to one neighbour by increasing one setback and decreasing the other without compromising the amenity of the opposite neighbour.

5.2 Therefore, it is the opinion of practitioners that Section B3.2.3 Side Setbacks should contain an additional control as follows:

- C6 Notwithstanding C1 to C3 above, in circumstances where Council is satisfied that an improved environmental outcome will result, at the discretion of Council, one side setback may be decreased, and the other increased accordingly.

This modification will allow greater flexibility in design to achieve improved amenity for development while protecting or enhancing the environmental impacts to neighbouring dwellings.

As outlined at paragraph 2.3, a further recommendation of practitioners as consistently communicated to the DCP Working Party is for Chapter B3 to contain a section or sections which acknowledge situations where an improved environmental outcome can be demonstrated to the satisfaction of Council, and where variations to the numerical controls will be considered by Council on merit.

6. SECTION B3.2.4 REAR SETBACK

Practitioners agree with and support the proposed amendments to Section B3.2.4 Rear Setback.

The current rear setbacks controls of the DCP are difficult to calculate, open to interpretation, ambiguous, and on irregular shaped sites, can result in undesirable environmental outcomes.

It is also the opinion of practitioners, that on irregular sites, it would be difficult for Council at the present time to defend the current controls if these were challenged by way of a Land & Environment Court Appeal for the reasons given above.

It is the opinion of practitioners that the environmental impacts of the proposed amendments are similar to the previous DCP and will not result in increased impact to neighbouring properties or the public domain.

7. SECTION B3.2.5 WALL HEIGHT & INCLINED PLANE

While practitioners generally support the objectives of Section B3.2.5 Wall height and inclined plane, we have consistently argued throughout the DCP Working Party process, that the means of determining the maximum wall height as outlined in control C1 is based upon a flat site, and makes no allowance for the varied topography within the Woollahra Municipality, including the many steeply sloping sites found in most precincts within the Municipality.

- 7.1 The diagrams below demonstrate the resulting building form compliant with maximum wall height control on sites with a 15 degree slope (Eastern & Western Slopes of Bellevue Hill, western slopes of Rose Bay, and many parts of Vaucluse), and those with a 25 degree slope

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(Darling Point, Point Piper and parts of Bellevue Hill, Rose Bay & Vaucluse), together with comparison of building form when the maximum wall height is averaged across side boundaries of development.

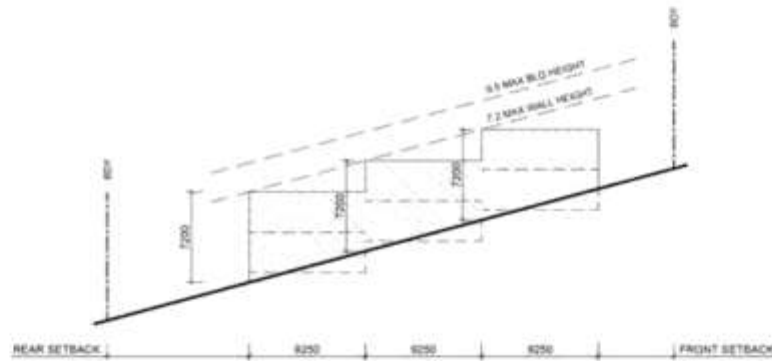


FIGURE 1: EXISTING MAXIMUM WALL HEIGHT CONTROL ON SITE WITH A 15 DEGREE SLOPE

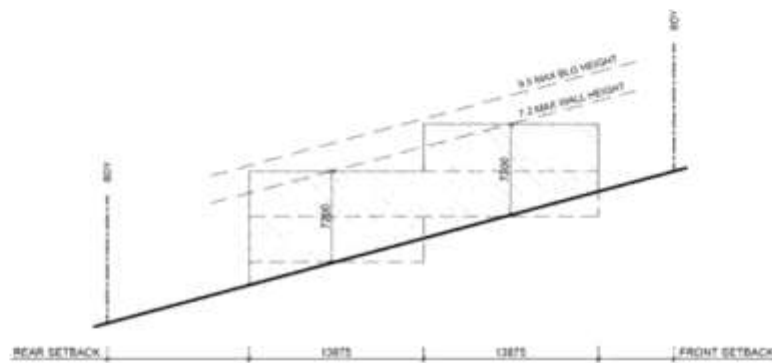


FIGURE 2: RESULT OF AVERAGING THE MAXIMUM WALL HEIGHT CONTROL ON SITE WITH A 15 DEGREE SLOPE

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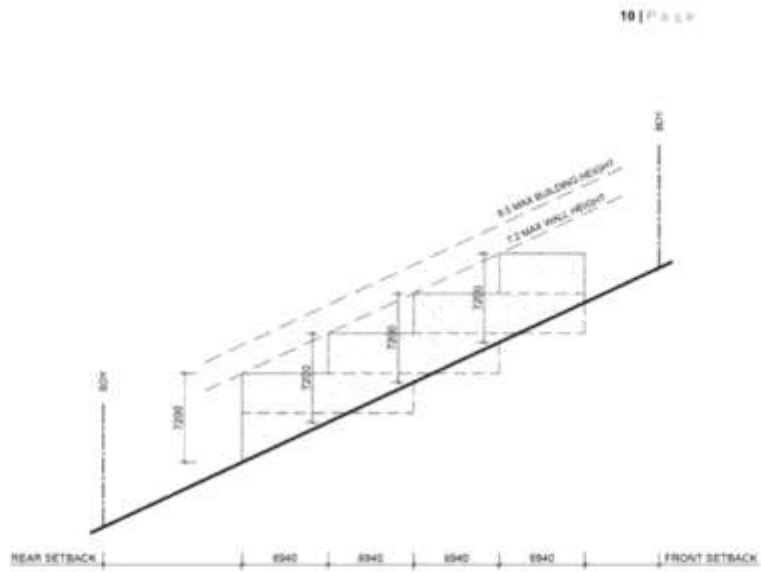


FIGURE 3 - EXISTING MAXIMUM WALL HEIGHT CONTROL ON SITE WITH A 25 DEGREE SLOPE

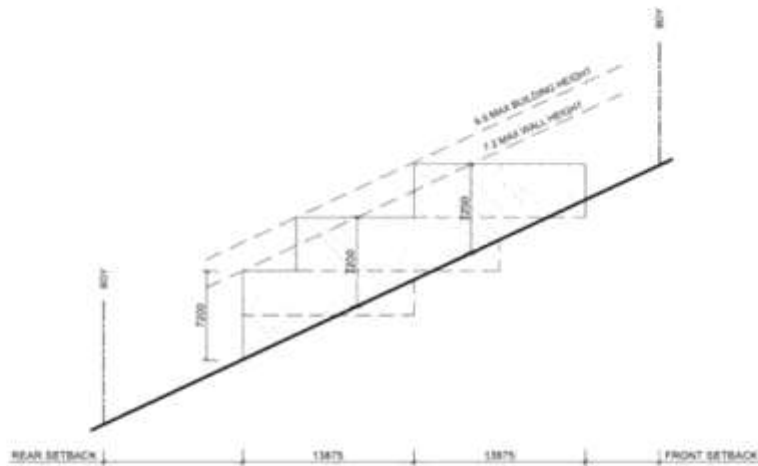


FIGURE 4 - RESULT OF AVERAGING THE MAXIMUM WALL HEIGHT CONTROL ON SITE WITH A 25 DEGREE SLOPE

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- 7.2 As is demonstrated in the diagrams above, strict compliance with the maximum wall height control on sloping sites results in adverse amenity impacts for the proposed development, including the necessity for split level floor plates, without necessarily having any greater impact of neighbouring properties.

However, in contrast, averaging the maximum wall height controls as demonstrated in diagrams 2 & 3, enables larger floor plates and amenity for the development, without compromising the amenity of neighbouring properties due the additional requirements of Chapters B3.5.2 Overshadowing, B3.5.3 Public and private views, B3.5.4 Acoustic and visual privacy, all which provide objectives and prescriptive controls to minimise impact on neighbouring dwellings resulting from wall heights adjacent to boundaries.

When considering the diagrams above, it should also be noted that many properties in Darling Point, Bellevue Hill, Point Piper and Vauduse have slopes in excess of 30 degrees resulting in even smaller floor plates to comply with the current control.

- 7.3 Therefore, it is the opinion of practitioners that Section B3.2.5 Wall height and inclined plane requires further amendment including the requirement to provide variation of the prescriptive control C1 and Figure 9 where developments are located on sloping sites.

It is also the opinion of practitioners, that if a variation to control C1 and Figure 9 are not including in the DCP, then it would be difficult for Council to defend the current controls if these were challenged by way of a Land & Environment Court Appeal, due to the maximum wall height on sloping sites being open to interpretation.

For the reasons outlined, practitioners continue to object to control C1 of Section B3.2.5, which is unnecessarily restrictive, unreasonable, and difficult to achieve of sloping sites, and in many cases unnecessary in the attainment of the objectives.

8 - SECTION B3.3 FOOTPRINT

Practitioners generally agree with, and support the proposal to amend Section B3.3 from the previously Floor Plate objectives and controls to a set of Building Footprint objectives and controls, and also generally agree with draft objectives O1 to O5.

- 8.1 However practitioners also believe that these objectives do not adequately address the issue of maintaining/providing deep soil landscaping which practitioners have consistently argued should be a fundamental requirement of the DCP including when determining the building footprint.

One of the most significant, and arguably important, attributes and amenity of the Woollahra Municipality, identified by residents and visitors alike, are it's mature trees, historical plantings, open spaces and topography both within the private and public domains.

The desired future character objectives as identified within the various precincts of the DCP confirm the importance of, conservation of, and protection of natural vegetation and landscaping.

- 8.2 Practitioners therefore submit that the most appropriate means to achieve these objectives is to ensure that the location of, and area covered by the building footprint does not compromise the ability to achieve the objectives of Section B3.7.1 Landscaped area and private open space, nor the numerical controls contained in controls C1 to C4 of Section B3.3 Footprint.

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8.3 Practitioners therefore submit an additional objective and control should be inserted within Section B3.3 Footprint as follows, and the following objectives and controls numbering be amended accordingly,

O2 *To ensure the location and size of the total building footprint on the site allows for the retention of mature trees and significant landscaping, and allows for deep soil landscaping in accordance with Chapter B3.7.1 Landscaped area and private open space.*

C4 *The built form, including garaging and ancillary buildings, allows for compliance with the objectives and numerical controls for deep soil landscaping in accordance with Section B3.7.1 Landscaped area and private open space.*

8.4 Practitioners are strongly opposed to the amended definition of Building Footprint.

Practitioners have consistently argued during the DCP Working Party process that the inclusions of covered decks, balconies, entry porches, verandahs, porte cochers, and crofts and the like in the calculation of Building Footprint would result in undesirable environmental effects and loss of amenity by encouraging the maximisation of internal areas to the detriment of good design outcomes.

While these elements have now been deleted from the amended descriptive 'wording' of Building Footprint, they have been reintroduced in the amended definition by way of the diagrams at Figure 10, which provides for all building elements, whether internal or external, excluding uncovered terraces and decks 2m above existing ground level to be included within the building envelope.

As practitioners have previously consistently argued:

- only those building elements which contain internal areas above or below should be included in the definition of Building Footprint, and should be clearly defined in the wording of Building Footprint and contain no ambiguity,
- the proposed amendment which includes all building elements (other than decks and verandahs below 2m above existing ground level) within the definition of Building Footprint will result in the unintended and undesirable effect of minimising balconies, porches, overhangs, awnings, solar protection devices and the like to the detriment of good design outcomes, including environmental amenity and sustainability.
- The DCP currently contains adequate objectives and controls within other sections, including building setbacks, solar access, and view impact requirements which protect the amenity of neighbouring properties and the public where building elements which are not included with the definition of Building Footprint may result in adverse amenity impacts.
- Considering the topography of the Municipality, much of which is steeply sloping, restricting the inclusion of terraces and decks to a height of 2m above existing ground level provides no consideration for site context, amenity, sustainability principles or exemplary design, and therefore, given previous comments, is both unreasonable, unnecessary, and undesirable.

Together with the above, it is also the opinion of practitioners that the inclusion of diagrammatic illustrations, as provided at Figure 10, often results in restricting other potential

design responses, and in the case of Figure 10, the potential for interpretation and ambiguity with the resulting potential for challenges to the Council's planning controls by way of appeal to the Land & Environment Court.

- 8.5 Subject to the submissions preceding, practitioners are generally in support of the proposal to calculate Building Footprint on a sliding scale as proposed in Figure 11.

Practitioners are also in support of the recommendation to vary the sliding scale as outlined in Figure 11 to allow the provision of differing building footprints commiserate with the various precincts with the Municipality, which can vary considerably.

In regard to the above, and as previously submitted, practitioners believe that it is vitally important that calculation of the building footprint using the slide scale for each precinct is determined from actual building consent approvals in each precinct over a period of time not from the previous DCP FSR controls.

- 8.6 Practitioners are not in support of control C5 (parking structures) in its present form.

To encourage car parking to be located within the building envelope in accordance with objective O3, then the concession for the permitted building footprint should be based upon the size of a car parking structure consistent with Council's off street car parking policy and compliant with Australian Standards.

We therefore note that Council's car parking policy provides a maximum of two on-site parking spaces for a single dwelling, with the required dimensions of two parallel parking spaces in accordance with AS 2890.1 2004 equating to 29.16 m².

Consequently, we argue that the numerical concession to the calculation of the building footprint where the car parking structure is located within the building envelope should be a minimum of 30m².

For the reasons outlined above, while practitioners are generally in strong support of the proposed amendments to Chapter B3.3, it is our opinion that further modifications as outlined are required to this chapter in order to create a set of robust objectives and controls which attain the aims of prescribing and calculating the building envelope and footprint.

It is also our opinion, that until modifications to this Chapter are undertaken, the ability for Council to assess development applications relating this chapter in an objective and consistently manner will be substantially compromised, resulting in potential challenges to Council's determinations, which in turn will potentially compromise the integrity of objectives and controls relating to building envelopes and footprint.

9. SECTION B3.4 EXCAVATION

Practitioners confirm their strong opposition to the current objectives and controls contained in Section B3.4 Excavation, both in respect to the existing as well as proposed amendments.

9.1 Opposition of practitioners to the current objectives & controls of Section B3.4 Excavation is based upon the following,

- case studies provided by practitioners to the DCP Working Party clearly identify that the short term objectives of Section B3.4 Excavation in regard to the objective of reducing energy and carbon emissions during excavation have a detrimental effect on the ability to provide natural heating/cooling and ventilation during the building's lifecycle, therefore substantially limiting positive outcomes to building occupants and the public over the long term.

This opinion, identified by way of case studies and academic papers, is supported by Council's own consultant on the DCP Working Party.
- as demonstrated to the DCP Working Party, the present objectives and controls contained in Section B3.4 Excavation may in some cases result in protecting the amenity of neighbouring properties in the short term, but in the long term substantively and detrimentally effect the ability to achieve significant benefits to building occupants and the public in the long term, including the ability to achieve the principles of ecologically sustainable development.
- the risk to, and protection of neighbouring properties, infrastructure and the public is not affected by the quantum of excavation, but rather the methodology by which it is carried out, consequently with appropriate safeguards and controls provided by Section B3.4, excavation risks and long term environmental effects are not increased as a result of increased volumes.
- excavation, subject to appropriate risks being mitigated by technical requirements and restrictions, provides many positive benefits to building occupants, neighbouring property owners and the public by:
 - (i) reducing the bulk and scale of buildings where overshadowing, view impacts, or other visual or acoustic environmental impacts occur.
 - (ii) providing off street car parking which does not result in additional bulk or scale, but which provides positive amenity to building occupants and the public, including opportunities for decreasing parking in residential streets, conserving and enhancing street trees and plantings and general public domain improvements.
- excavation for the purposes of providing off-street parking is supported by all residents and building owners practitioners have canvassed, and in the opinion of practitioners, the current excavation controls are not supported by the majority of residents and building owners.
- in the opinion of practitioners, the current objectives and prescriptive controls of Section B3.4 Excavation are not based upon sound scientific or geotechnical data sufficiently robust to enable Council to defend these objectives or controls, and in support of this opinion, practitioners believe that Council has been unsuccessful in any Land & Environment Court Appeal in regard to excavation volumes.

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- Since the introduction of the present excavation objectives and controls, development consents issued by Council which relate to excavation are variable and inconsistent, with volumetric approvals varying considerably to that of the prescribed prescriptive requirements, including approvals four and five times greater than the prescribed controls.
- 9.2 Opposition of practitioners to the proposed amendments to Section B3.4 Excavation is based upon the following:
- as demonstrated by the case studies provided, development applications approved and refused by Council, and the comments provided above, the present excavation objectives and controls are unreasonably, unnecessarily prescriptive and restrictive, hinder long term amenity and environmental benefits over short term amenity impacts, and do not result in increased risk mitigation to neighbouring properties of the public.
 - the amendments as proposed do not result in achieving:
 - (i) better short or long term environmental outcomes, improved amenity or public benefits.
 - (ii) any substantive reduction to the degree of unreasonableness or unnecessary restrictions in the current controls.
 - (iii) any substantive improvements in creating a set of objectives and controls which are sufficiently robust to allow Council to successfully defend these upon appeal.
 - Council has been, and is not consistent in the manner which it applies restrictions on excavation volumes, for example Paddington has arguably greater risk for higher excavation volumes, yet there are no volumetric restrictions within the DCP for excavation in Paddington.
- 9.3 Practitioners have consistently argued that the objectives of Section B3.4 Excavation should relate to the need to conserve and protect existing trees, significant landscaping and topography, protect and enhance opportunities for deep soil landscaping, protect adjacent structures, and mitigate risk to the private and public domains associated with excavation activities, while providing opportunities for achieving improved amenity for both occupants, neighbouring properties and the general public.
- these objectives can be adequately achieved without the current unreasonable and unnecessary restrictions of excavation volumes, as has been demonstrated by the numerous case studies we have provided, together with numerous examples of development outside this Municipality which has through excavation, delivered improved amenity to occupants and the general public, while achieving the principles of ecological sustainability over the long term.
 - further to our recent verbal submissions to Council's senior planning staff, allowing excavation for the purposes of on-site car parking, significantly improves our streets and public spaces by reducing the demand for street parking, allowing opportunities for additional street trees and landscaping in suburban streets, improves the visual quality of the public domain, as well as providing pedestrian centric streets, rather than ones dominated by parked cars.
 - when considering the impacts of excavation, it is vitally important to separate the short term impacts of excavation over those of the long term, as in the long term, well considered and well executed excavation provides significant long term amenity benefits.

- well considered objectives and sound geotechnical controls can adequately mitigate the risk associated with excavation, without the need for volumetric restrictions, or the restricting the ability to provide increased amenity to occupants, neighbouring properties or the general public.

We therefore provide at Annexure 2 an amended set of excavation objectives and controls for Council's consideration, which in the opinion of practitioners will mitigate and control risk without compromising the ability for increased amenity or unnecessarily and unreasonably restricting excavation volumes.

For the reasons provided above, practitioners continue to voice their strong objection to both the existing and proposed objectives and controls of Section B3.4 Excavation, but trust that Council will objectively consider the draft objectives and controls provided by practitioners which we believe achieve both the short and long term objectives for excavation.

10 SECTION B3.6 ON-SITE PARKING

Practitioners confirm the general support of the objectives of Section B3.6 On-site parking.

- 10.1 However practitioners believe that an additional objective should be added as below to ensure that mature trees, significant landscaping, and the ability to comply with the minimum requirements for deep soil landscaping are not adversely affected by on-site parking facilities.

O8 *To ensure that on-site parking does not adversely impact upon significant trees or landscaping or prevent the ability to provide deep soil landscaping in accordance with the objectives and numerical controls for deep soil landscaping of Section B3.7.1 Landscaped area and private open space.*

- 10.2 Practitioners also draw attention to previous submissions made to the DCP Working Party, including the provision of case studies, that the current objectives and controls for Section B3.6 On-site parking are predominately based upon the minimisation of impact to the streetscape, integration with the principle building form, and location of on-site parking within the building envelope.

This is consistent with Section B3.3 Footprint which also contains objectives and controls to encourage location of on-site parking/garaging within the building footprint.

- 10.3 However due to the typical sloping topography of the Municipality, in order to achieve the objectives detailed above, excavation is often required, with the present excavation volume restrictions preventing the attainment of these objectives.

The case studies presented by practitioners clearly demonstrate that the current and proposed excavation objectives and controls are in conflict, and prevent the attainment of the important objectives of Section B3.6 On-site parking which are intended to minimise impact on the streetscape character while allowing on-site parking which in turn minimises parking demand on suburban streets (refer previous comments in Section 9.3)

For the reasons given above, and in Chapter 9 of this submission, practitioners submit that there should be no restrictions on either the number of on-site car parking spaces provided, nor on the volume of excavation required to allow car parking to be placed within the building envelope, where existing significant trees and landscaping is retained, and deep soil landscaping requirements are met.

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Providing on-site parking ensures that:

- As previously identified at Chapter 8.1, "....the most significant, and arguably important, attributes and amenity of the Woollahra Municipality, identified by residents and visitors alike, are it's mature trees, historical plantings, open spaces and topography both within the private and public domains..." are protected and enhanced.
- The key objectives of the desired future character objectives of various precincts identified in the DCP confirm the importance of, ".....conserving and protecting topography, natural vegetation and landscaping."
- Reduces the propensity of cluttering up our suburban streets with parked cars, which results in adverse physical and visual impacts on the environment for both residents and the public alike.

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ANNEXURE 1

B3.1.3 Objectives

Woollahra Council is committed to design excellence deemed to be achieved when development meets the following objectives:

- O1 Is consistent with or supports the desired future character of the area;
- O2 Conserves, protects, and where circumstances allow, enhances the special qualities of the location both in respect to the private and public domains;
- O3 Respects the natural, built and cultural significance of the location, while allowing contemporary design and innovation;
- O4 Conserves and protects established trees, deep soil landscaping, and significant plantings, together with enhancing opportunities for additional trees and landscaping;
- O5 Achieves high levels of occupant amenity while minimising adverse long term amenity impacts on both the private and public domains;
- O6 Incorporates and encourages the principles of ecologically sustainable development; O7 Is assessed by peer review to have achieved appropriate standards of architecture.

Proposed development subject to Chapter B3 General Development Controls will be assessed against these objectives.

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ANNEXURE 2

B3.4 Excavation

Objectives

- O1 To allow buildings to be designed and sited to relate to topography.
- O2 To allow excavation which provides increased amenity and improved environmental outcomes.
- O3 To ensure that excavation allows for the retention of mature trees and significant landscaping, and allows compliance with the objectives and numerical controls for deep soil landscaping in accordance with Chapter B3.7.1 Landscaped area and private open space.
- O4 To ensure the cumulative impact of excavation does not adversely affect the integrity of existing structures, land stabilisation, or ground water flows.
- O4 To ensure that excavation is undertaken in a manner which does not result in unreasonable or unnecessary environmental impacts, including environmental impacts associated with air quality, dust, noise, vibrations or pollution.
- O5 To ensure the cumulative impact of excavation does not adversely affect public infrastructure, the integrity of existing structures, land stabilisation, or ground water flows.

Controls

- C1 Where excavation is within the root zone of significant trees, an arborist/horticultural report prepared by a suitably qualified person must be provided to Council confirming that proposed excavation will not result in detrimental impacts to the health or stability of the tree.
- C2 Excavation shall not reduce the ability to provide deep soil landscaping in accordance with the objectives and numerical controls for deep soil landscaping of Section B3.7.1 Landscaped area and private open space.
- C3 Excavation shall not detrimentally affect the ability to attain the desired streetscape character objectives of the DCP within the precinct in which it is to be carried out.
- C4 Sub-surface walls including piling are no closer to side or rear boundaries than permitted by the building setback controls unless it can be demonstrated on merit that better environment outcomes will result.
- C5 Where excavation, in the opinion of Council, has the potential to impact upon public infrastructure, the integrity of existing structures, land stabilisation whether on the subject site, neighbouring properties or public land, ground water flows, or result in other adverse environmental impacts, Council will require the preparation of appropriate technical reports, including, but not limited to, geotechnical, hydrogeotechnical, or hydraulic reports, prepared by suitable qualified persons confirming to Council's satisfaction, the risks associated with the proposed excavation, together with how excavation is to be carried out to reduce and mitigate identified risks.

Note: Council may identify other circumstances where reports are required. All reports must be prepared in accordance with Council's guidelines.
- C6 Where it is identified that neighbouring structures are within the zone of influence of proposed excavation, pre-commencement and post construction dilapidation reports prepared by suitably qualified persons will be required by Council.

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Annexure 7

Summary of submission from EDPA 10 October 2016 and staff response

Issue raised by practitioners.	Staff response	
<p>B3.1.3 Overarching Objectives (Sub ref 3.1-3.2) Practitioners support a set of over-arching objectives encouraging design excellence. Practitioners provided a set of overarching objectives at Annexure 1 of their submission.</p>	Staff support inserting design excellence criteria, incorporating some of the practitioner's suggested wording. (see report).	✓
<p>B3.2.2 Front setback (Sub ref 4) Practitioners support controls which provide design flexibility based on the street context.</p>	Support noted.	✓
<p>B3.2.3 Side Setbacks (Sub ref 5.1-5.2) Practitioners support amendments to side setbacks which have been simplified in a table.</p>	Support noted.	✓
<p>Side setbacks –flexibility in controls (Sub ref 5.2) Practitioners are seeking a greater degree of flexibility and variations in the controls, where better environmental outcomes may result e.g. where one side boundary is adjacent to a road, lane or public space. Practitioners suggest inserting the control below, to allow variations to the numerical controls, where a "better environmental outcome" can be demonstrated: <i>C6 Notwithstanding C1 to C3 above, in circumstances where Council is satisfied that an improved environmental outcome will result, at the discretion of Council, one side setback may be decreased, and the other increased accordingly.</i></p>	Staff do not support the suggested control. The DCP controls already provide a degree of flexibility based on merit assessment and compliance with the relevant objectives.	X
<p>Greater flexibility in all controls, where better environmental outcome is achieved. (Sub ref 2.3) Practitioners request an overarching variation to numerical controls where improved environmental outcomes can be demonstrated to the satisfaction of Council.</p>	Staff do not support an overarching control suggesting variations to the controls are permissible based on environmental outcomes. The DCP controls already provide a degree of flexibility based on merit assessment and compliance with the relevant objectives. The discussion on the difficulties of defining and interpreting improved environmental outcomes is provided in the report.	X
<p>B3.2.4 Rear setback (Sub ref 6) Practitioners support the proposed amendments.</p>	Support noted.	✓

Issue raised by practitioners.	Staff response	
<p>B3.2.5 Wall height and inclined plane (Sub ref 7.1-7.3)</p> <p>Practitioners are in general support of the objectives of the wall height and inclined plane. However, controls should be amended, so that where an improved environmental outcome can be demonstrated, a variation may be allowed.</p> <p>Proposed controls require further amendment (including a variation) prior to public exhibition.</p>	<p>Support amendment in part.</p> <p>The inclusion of a control to permit variations to the wall height on steeply sloping sites was added at the suggestion of the practitioners.</p> <p>Council staff agree that restricting the wall height on sloping sites (more than 15 degrees) can result in buildings with changes to internal floor levels.</p> <p>Development control staff confirmed that small variations to the wall height controls on the downslope side of sloping sites may be appropriate.</p>	✓
<p>B3.3 Footprint (Sub ref 8)</p> <p>Practitioners are in general support for the proposed footprint objectives and controls to replace the floorplate.</p>	<p>Support noted.</p>	✓
<p>Objectives (Sub ref 8.1-8.3)</p> <p>Objectives do not adequately address the importance of deep soil landscaping.</p> <p>Practitioners suggest a further emphasis by inserting the additional objective and control below:</p> <p><i>O2 To ensure the location and size of the total building footprint on the site allows for the retention of mature and significant landscaping, and allows for deep soil landscaping in accordance with Chapter B3.7.1 Landscaped area and private open space.</i></p> <p><i>C4. The built form, including garaging and ancillary buildings, allows for compliance with the objectives and numerical controls for deep soil landscaping in accordance with Section B3.7.1 Landscaped area and private open space.</i></p>	<p>Staff do not support the suggested objectives and controls. A control to provide appropriate deep soil landscaping is included within the proposed footprint controls and section B3.7.1 of the chapter. Including additional objectives and clauses in B3.3 would duplicate information already contained in the chapter.</p> <p>Staff support the intent but it is already covered by section B3.7.1.</p>	✗
<p>Footprint Definition (Sub ref 8.4)</p> <p>Practitioners suggest that the proposed definition is unreasonably restrictive and will result in undesirable amenity and environmental impacts.</p> <p>Practitioners oppose the definition which includes covered decks, balconies and the like, resulting in undesirable environmental effects and loss of amenity by encouraging the maximisation of internal areas to the detriment of good design outcomes (minimising balconies, porches, overhangs and awnings). Whilst deleted from the definition, they have been introduced via the diagrams at Figure 10, which is not supported.</p> <p>Only those building elements which contain internal areas above or below should be included in the</p>	<p>Staff do not support amending the footprint definition for the following reasons:</p> <ul style="list-style-type: none"> • The footprint controls are designed to regulate building bulk and minimise adverse amenity impacts such as overshadowing and view loss. • Covered outdoor areas (and all external built form elements 1.2m above existing ground level) form part of the building bulk and should therefore be regulated. • Providing an exemption for outdoor areas would complicate the assessment. • The development control team have advised that applicants are unlikely to sacrifice this outdoor space to maximise 	✗

Issue raised by practitioners.	Staff response	
definition.	internal space.	
<p>Delete misleading diagrams (Sub ref 8.4)</p> <p>Including diagrams in the DCP results in restricting other potential design responses, and creates potential ambiguity to the Council's planning controls.</p>	<p>Diagrams are a standard tool used in planning documents to assist interpretation of the written development controls.</p> <p>The proposed figures are indicative, and are not used to illustrate particular development types.</p> <p>Examples of these diagrams can be found in numerous planning documents e.g. the <i>Department of Planning and Environment's Apartment Design Guide</i>.</p>	X
<p>Footprint sliding scale (Sub ref 8.5)</p> <p>Support a precinct-specific footprint sliding scale which should be calculated from building consent approvals (not from previous DCP/FSR controls).</p>	<p>Support noted.</p> <p>A sliding scale table has been prepared applying to residential precincts. Smaller sites have a greater footprint percentage, which is a translation of the current approach.</p> <p>A separate scale has been formulated for the Point Piper residential precinct, which has a more dense urban form.</p>	✓
<p>C5 (parking structures) (Sub ref 8.6)</p> <p>Object to control which identifies a concession of 20m² where a car parking structure is located wholly in the building envelope. Consistent with the AS/NZS 2890.1: 2004, this should be a minimum of 30m².</p>	<p>Staff do not support amending the concession for parking structures.</p> <p>The 20m² additional footprint allowance is an incentive to position on-site car parking within the building envelope, and it does not represent the size of the car parking area.</p> <p>Projecting 20m² over two and a half storeys (within the WLEP 2014 height limit) is the equivalent of 50m² of gross floor area.</p>	X
<p>B3.4 Excavation (Sub ref 9.1-9.3)</p> <p>Practitioners object to proposed objectives and numerical controls.</p> <p>Excavation should be assessed on a case by case basis, and not limited for the following reasons:</p> <ul style="list-style-type: none"> • Addressing short term environmental impacts often result in inability to provide higher levels of amenity and reduced environmental impact (to the private and public domain). • No evidence to demonstrate limiting excavation creates an environmental or public benefit, or that increased excavation creates increased risk. • Risks associated with excavation can be addressed via geotechnical and structural controls • Excavation reduces impacts from bulk increasing views, solar access, allowing on-site parking and increasing amenity. 	<p>Staff do not support the suggested objectives and controls, or removal of volumetric controls for excavation (see report).</p>	X
<p>B3.4 Excavation – lack of scientific or geotechnical</p>	<p>Support amended objectives.</p>	

Issue raised by practitioners.	Staff response	
<p>evidence</p> <p>Current controls are not based on sound scientific or geotechnical evidence. Development consents issued by Council which relate to excavation are variable and inconsistent with volumetric approvals.</p>	<p>In response to issues raised by the practitioners, the objectives relating to damage to Council infrastructure and energy expenditure have been deleted.</p>	✓
<p>Excavation objectives and controls (Sub ref Annexure 2)</p> <p>Practitioners have recommended a set of objectives and controls for inclusion in the revised Chapter. These should have a greater emphasis to conserve and protect existing trees, significant landscaping and topography, protect and enhance opportunities for deep spoil landscaping, protect adjacent structures and mitigate risk to the private and public domain.</p>	<p>Staff do not support incorporating the recommended excavation objectives and controls.</p> <p>Several objectives and controls recommended by the practitioners relate to matters which are addressed by conditions of consent and construction processes. These include managing excavation within the root zone of trees, dilapidation reports and access to neighbouring sites.</p>	X
<p>On-site parking objectives (Sub ref 10.1-10.2)</p> <p>Support objectives. However, the practitioners seek to add a new objective:</p> <p><i>O8 To ensure that on-site parking does not adversely impact upon significant trees or landscaping or prevent the ability to provide deep soil landscaping in accordance with the objectives and controls for deep soil landscaping on Section B3.7.1 Landscaped area and private open space.</i></p>	<p>Staff do not support the suggested objective.</p> <p>The objectives and controls in B3.7.1 adequately address the content of the suggestive objective. An additional objective in B3.6 as suggested would create unnecessary duplication.</p>	X
<p>Objection to maximum on-site parking rates (Sub ref 10.3)</p> <p>Practitioners submit there should be no restrictions on the number of on-site parking spaces, where deep soil landscaping, DFC, views, solar access and building footprint can be achieved.</p> <p>On-site parking (where the visual and physical impacts are addressed) provides amenity and environmental benefits to residents and the public. Reducing private parking on street and increasing trees and landscaping in the public domain.</p> <p>Limiting on-site parking and excavation will increase on-street parking and reducing streetscape quality.</p>	<p>Staff do not support the removal of restrictions on the number of onsite parking spaces (see report).</p>	X
<p>Excavation and on-site parking (Sub ref 10)</p> <p>There should be no restrictions on either the number of on-site car parking space provided, nor the volume of excavation required to allow car parking within the envelope (where existing significant trees and landscaping is retained and deep soil landscaping requirements are met).</p>	<p>See responses above.</p>	X

Annexure 8

REVISED CHAPTER FOR THE URBAN PLANNING COMMITTEE MEETING OF
31 OCTOBER 2016

Insertions - identified in blue and undertined

~~Deletions - identified in red and scored through~~

Chapter B3 General Development Controls

Part B ▶ General Residential

TRIM: 16/145398

Woollahra Development Control Plan 2015
DRAFT FOR UPC 31 OCTOBER 2016

▶ 2

► Part B | General Residential

B3 | General Development Controls

Chapter B3 ► General Development Controls

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B3.1 Introduction

This is Chapter B3 of the Woollahra Development Control Plan 2015 (DCP), Part B General Residential. The controls in this chapter must be read in conjunction with the controls in Chapter B1 Residential Precincts and Chapter D2 Neighbourhood Heritage Conservation Areas (HCAs).

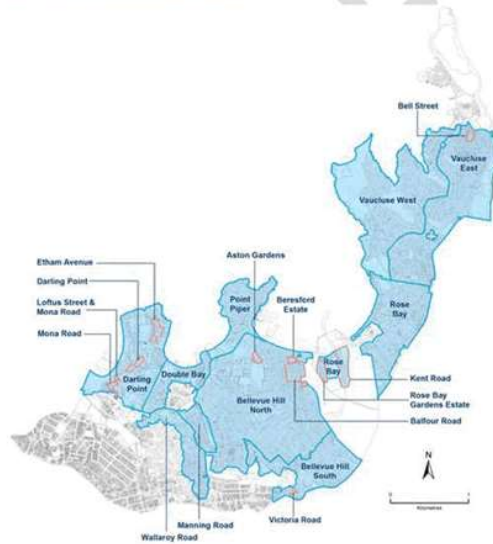
The Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014) includes building height controls, floor space ratios in the R3 Medium Density Residential Zone and the minimum lot size required for subdividing or developing land.

The controls in this chapter guide the scale and bulk of development so that is compatible with site conditions and the desired future character of the location where the development is proposed.

B3.1.1 Land where this chapter applies

This chapter applies to land identified on Map 1 below.

MAP 1 The land where this chapter applies



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The area comprises:

10 Residential Precincts

- ▶ Darling Point
- ▶ Double Bay
- ▶ Wallaroy
- ▶ Manning Road
- ▶ Point Piper
- ▶ Bellevue Hill South
- ▶ Bellevue Hill North
- ▶ Rose Bay
- ▶ Vaucluse West
- ▶ Vaucluse East

11 Neighbourhood HCAs

- ▶ Etham Avenue, Darling Point
- ▶ Darling Point Road, Darling Point
- ▶ Mona Road, Darling Point
- ▶ Loftus Road and Mona Road, Darling Point
- ▶ Aston Gardens, Bellevue Hill
- ▶ Victoria Road, Bellevue Hill
- ▶ Balfour Road, Rose Bay
- ▶ Beresford Estate, Rose Bay
- ▶ Rose Bay Gardens Estate, Rose Bay
- ▶ Kent Road, Rose Bay
- ▶ Bell Street, Vaucluse

B3.1.2 Development to which this chapter applies

This chapter applies to development that requires development consent. This includes new development and additions and alterations.

Generally this will be residential development, but may include other permitted uses such as child care centres, community facilities, educational establishments, neighbourhood shops and places of public worship, and other uses permitted in Woollahra LEP 2014.

This area is predominantly zoned R2 Low Density Residential and R3 Medium Density Residential, but also includes land zoned SP2 Infrastructure, RE1 Public Recreation, RE2 Private Recreation, E1 National Parks and Nature Reserves and E2 Environmental Conservation.

Note: Those provisions in Woollahra DCP 2015 that specify requirements, standards or controls that relate to certain matters which are listed in clause 6A of the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65) have no effect in the assessment and determination of a development application for development to which SEPP 65 applies.

Residential apartment development is defined in clause 4 of SEPP 65. It comprises residential flat buildings, shop top housing and mixed use development with a residential accommodation component. The building must be at least three or more storeys (excluding levels below existing ground level or levels that are less than 1.2m above existing ground level that provide car parking). The building must contain at least four or more dwellings.

All other provisions of Woollahra DCP 2015 apply to the assessment and determination of a DA for development to which SEPP 65 applies.

Comment [DCP1]: Issue raised by staff - Note inserted to address the relationship of the DCP to DAs which are lodged under SEPP 65.

B3.1.3 Objectives

The objectives of this chapter are:

- O1 To facilitate housing in a way that reflects desired future character objectives for the residential precincts and neighbourhood heritage conservation areas.
- O2 To ensure that the form and scale of development is not excessive and maintains the continuity of building forms.
- O3 To conserve the natural, built and cultural significance of identified heritage items and heritage conservation areas.
- O4 To facilitate flexibility and innovation in design while ensuring sympathetic and well mannered development.
- O5 To ensure that development establishes a good relationship to the streetscape context.
- O6 To ensure that development responds to the site topography and minimises excessive excavation.
- O7 To minimise the negative impacts of development on the amenity of adjoining and neighbouring properties.
- O8 To promote housing that achieves principles of ecologically sustainable development.

Comment [DCP2]: Issue raised by practitioners: Delete chapter objectives and replace with overarching criteria encouraging design excellence.

B3.1.3 Design Excellence

Woollahra Council has a strong commitment to design excellence. Design excellence may be achieved by development that meets the following criteria, as well as all other relevant objectives and controls in this chapter.

1. Development contributes positively to the desired future character of the relevant residential precinct described in section B1 of this DCP.
2. Development respects the natural, built and cultural significance of the site and its location.
3. Development conserves and protects established and significant trees, plantings and deep soil landscaping and, where possible, enhances plantings and deep soil landscaping.
4. Development responds to the topography and minimises excavation.
5. Development provides high levels of amenity for both private and public land.
6. Development incorporates the principles of ecologically sustainable development, such as:
 - minimising energy consumption,
 - reducing potable water use,
 - using energy and water efficient appliances,
 - using environmentally friendly products, and
 - enhancing indoor environmental quality.

Comment [DCP3]: Issue raised by practitioners: Proposed criteria encouraging design excellence.

B3.1.4 Relationship to other parts of the DCP

This chapter is to be read in conjunction with the other parts of the DCP that are relevant to the development proposal, including:

- ▶ Part B: Chapter B1 Residential Precincts OR Chapter B2 Neighbourhood HCAs, depending on the location of the proposed development.
- ▶ Part E: General Controls for All Development - this part contains chapters on Parking and Access, Stormwater and Flood Risk Management, Tree Management, Contaminated Land, Waste Management, Sustainability, Signage and Adaptable Housing.
- ▶ Part F: Land Use Specific Controls - this part contains chapters on Child Care Centres, Educational Establishments, Licensed Premises and Telecommunications.

B3.1.5 How to use this chapter

This chapter establishes controls for the following topics:

- ▶ building envelopes;
- ▶ footprint;
- ▶ excavation;
- ▶ built form and context;
- ▶ on-site parking;
- ▶ external areas;
- ▶ additional controls for development other than a dwelling house;
- ▶ additional controls for development on a battle-axe lot; and
- ▶ additional controls for development in sensitive locations (for example harbour foreshore development and land adjoining public open space).

The controls in this chapter comprise the following elements:

- ▶ **Explanation of the topic:**
This provides background information on why the topic is important, how it is relevant to building design, and how the controls should be applied.
- ▶ **Table of objectives and controls:**
The objectives describe the outcomes that proposed development is required to achieve. Applicants need to demonstrate how their development fulfils the relevant objectives for each topic. The controls represent specific ways in which a development proposal can meet the objectives. The intent of the controls must be interpreted in the context of the topic's objectives.

Development is required to address all the relevant controls. Where there is a disparity between these general controls and the precinct specific controls in Chapters B1 and B2, those specific controls take precedence over the general controls.

Comment [DCP4]: Issue raised by staff and practitioners - The use of the floorplate control has been deleted, and replaced with the new simplified footprint control.

B3.2 Building envelope

The building envelope is a three dimensional space within which a building is to be located.

B3.2.1 Where the building envelope controls apply

Development in the R2 Low Density Residential Zone

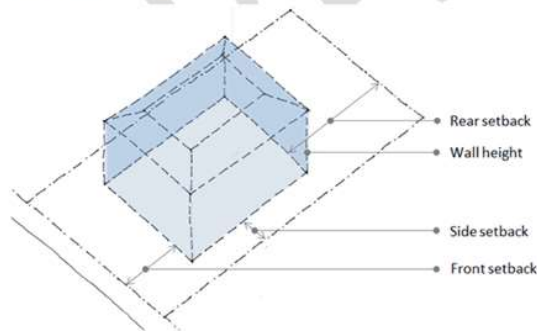
The building envelope (as shown in Figure 1) is established by applying the following controls:

- ▶ front, side and rear setbacks;
- ▶ maximum wall height of 7.2m;
- ▶ inclined plane of 45° taken from the maximum wall height; and
- ▶ maximum building height set by Woollahra LEP 2014.

The building is to be contained within the building envelope, but is to occupy only a percentage of the building envelope (as determined by the footprint controls in Section B3.3 Footprint). There is an allowance of 450mm for eaves outside the building envelope as long as the protrusion is below the inclined plane (where one applies). However, the eaves are included in the footprint (refer to footprint 11).

Note: Additional controls apply to development on a battle-axe lot (refer Section B3.9).

FIGURE 1 Building envelope



Comment [DCP5]: Issue raised by staff - insert clarification that there is an allowance for eaves for the building envelope, but the area of eaves are included in the footprint calculation.

Development for dwelling houses, semi-detached dwellings and dual occupancies in the R3 Medium Density Residential zone

In the R3 Medium Density Residential Zone, an FSR control does not apply to dwelling houses, semi-detached dwellings and dual occupancies in Woollahra LEP 2014 (clause 4.4(2A)). The development potential for these uses is determined by the same building envelope that applies to the development in the R2 Low Density Residential Zone (see above).

All other development in the R3 Medium Density Residential Zone

In the R3 Medium Density Residential Zone, an FSR control applies to all development except dwelling houses, semi-detached dwellings and dual occupancies.

Where an FSR control applies, the building envelope is established by applying the following controls:

- ▶ front, side and rear setbacks;
- ▶ maximum building height set by Woollahra LEP 2014.

The wall height, inclined plane and floorplate footprint controls do not apply.

The development, such as a residential flat building, is to be contained within the building envelope. However, the proposed building may only occupy a portion of the building envelope as determined by the maximum FSR control in the LEP.

B3.2.2 Front setback

Front setbacks establish the position of buildings in relation to the street boundary. They create the spatial proportions of the street and can contribute to the streetscape character by providing consistency.

Buildings and plantings on private land form essential parts of the streetscape. Front setbacks should be used to enhance the setting for the building, providing landscaped areas and access to the building.

The front setback is the horizontal distance between the building envelope and its primary street boundary, measured at 90° from the boundary (refer to Figure 2).

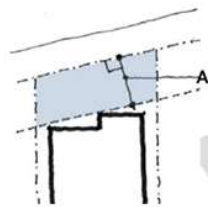


FIGURE 2
Front setback measurement
Example
A – Front setback measured at 90° to the front boundary

Comment [DCP6]: Issue raised by staff - the methodology for calculating the front setback has been moved adjacent to the control in section 3.2.2.

B3.2 Building envelope ▶ 3.2.2 Front setback

Objectives	Controls
<p>O1 To reinforce the existing streetscape and character of the location.</p> <p>O2 To provide consistent front setbacks in each street.</p> <p>O3 To provide for landscaped area and deep soil planting forward of the building.</p>	<p>C1 The front setback of the building envelope is determined by averaging the three most typical setbacks of the four closest residential buildings that face the same side of the street (refer to Figure 3).</p> <p>Note: <u>The front setback is the horizontal distance between the building envelope and the primary street boundary, measured at 90° from the boundary (refer to Figure 2).</u> Note: On corner lots, the shortest frontage to a street is typically where the front setback applies.</p> <p>Note: These controls do not apply to battle-axe lots (refer to Section B3.9).</p>

Comment [DCP7]: Issue raised by staff - the methodology for calculating the front setback has been moved adjacent to the control.

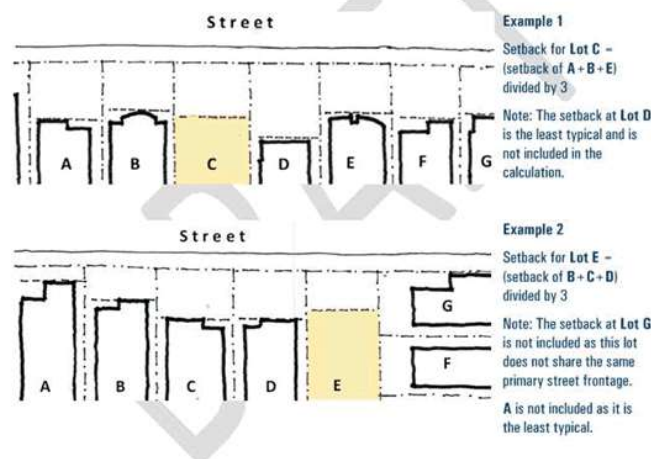
Comment [DCP8]: Administrative amendment - insert clarification.

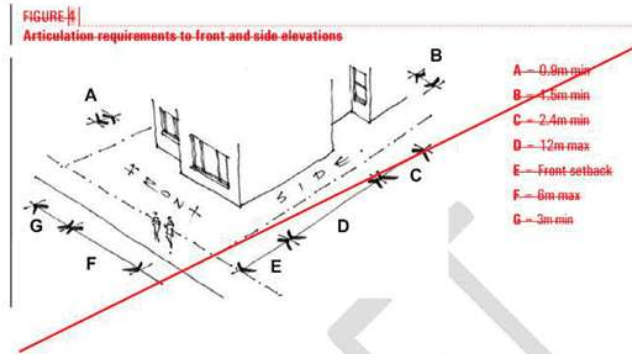
B3.2 Building envelope ▶ 3.2.2 Front setback	
Objectives	Controls
O4 To ensure that buildings are well articulated and positively contribute to the streetscape.	C2 The building has a maximum unarticulated width of 6m to the street frontage, beyond which the building is setback a further 0.9m for at least 3m of the frontage (refer to Figure 3).

Comment [DCP9]: Issue raised by staff and practitioners - Deleted in response to feedback that the control is overly prescriptive.

FIGURE 3

Setbacks of the four closest residential buildings are determined by the distance between the primary street boundary and the outside face of the front building wall, or any protruding balcony deck or the like (excluding garages or carports).





Comment [DCP10]: Issue raised by staff and practitioners: Figure deleted in response to feedback that the control is overly prescriptive.

B3.2.3 Side setbacks

The side setback control seeks to ensure that the distance of a building from its side boundaries protects the amenity of both the neighbours and the proposed development.

The side setback is the horizontal distance between the building envelope and the side property boundary, measured at 90° from the boundary. The minimum side setback requirement varies according to the lot width and building type (refer to Figure 5).

Comment [DCP11]: Issue raised by staff - the text identifying the methodology for calculating the front setback has been moved adjacent to the control in table 3.2.3.

B3.2 Building envelope ▶ 3.2.3 Side setbacks

Objectives	Controls
	<p>C1 — When the site width is 13m or less both side setbacks are a minimum of 10% of the lot width or 0.9m, whichever is greater.</p> <p>C2 — When the site width is greater than 13m—the minimum side setback is a percentage of the lot width determined by the sliding scale in Figure 5.</p> <p>C3 — When the site width exceeds 23m—both side setbacks are a minimum of 15% of the lot width.</p>
D1 — To protect the acoustic and visual privacy	C1 The side setback for dwelling houses.

Comment [DCP12]: Issue raised by staff and practitioners - Delete side setback sliding scale which has been simplified into a table.

The side setbacks are then applied consistently along the whole side boundary.
Replace existing Figure 5 with new Figure 5 and 6.

Comment [DCP13]: Issue raised by staff - Objectives and controls relating to privacy have been deleted from this section, and are now only located in section B3.5.4 Acoustic and visual privacy to prevent duplication.

Comment [DCP15]: Issue raised by staff - Simplification of the side setback by removing the sliding scale and inserting table. Replace existing Figure 5 with new Figure 5 (for dwelling house etc) and 6 (for RFBs etc and non-residential development).

B3.2 Building envelope ▶ 3.2.3 Side setbacks

Objectives	Controls
<p>of residents on adjoining properties.</p> <p>O2 To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.</p> <p>O3 To ensure the side elevation of buildings are well articulated.</p> <p>O4 To facilitate solar access to habitable windows of adjoining properties.</p> <p>O5 To facilitate views between buildings.</p> <p>O6 To provide opportunities for screen planting.</p> <p>O7 To allow external access between the front and rear of the site.</p>	<p>semi-detached dwellings and dual occupancies is determined by the table in Figure 5.</p> <p>C2 The minimum side setback for residential flat buildings, attached dwellings and multi-dwelling housing is determined by the table in Figure 6.</p> <p>C3 The minimum side setback for any other land use not addressed in controls C1 to C2 above is determined by the table in Figure 6.</p> <p>Note: The side setback is the horizontal distance between the side property boundary and the building envelope, measured at 90° from the boundary, as shown in Figure 4.</p> <p>Note: For controls C2 and C3 setbacks include any basement piling or similar structured forms</p> <p>C4 The building has a maximum unarticulated wall length of 12m to the side elevation, beyond which the side setback is increased by at least 1.5m for a minimum distance of 2.4m (refer to Figure 4).</p> <p>Note: A reduced side setback may be considered where zero or significantly reduced setbacks are characteristic of the immediate streetscape. These streets may be specifically identified in Chapter B1 Residential Precincts or Chapter B2 Neighbourhood HCAs.</p>

Comment [DCP14]: Issue raised by staff - Combine existing articulation objectives O8 - O11 into a simplified single objective.

Comment [DCP16]: Issue raised by staff and practitioners. Definition of side setback amended to simplify application and make the setback consistent across the entire site. Insert new Figure 4.

Comment [DCP17]: Issue raised by staff - Side wall articulation control has been made less prescriptive.

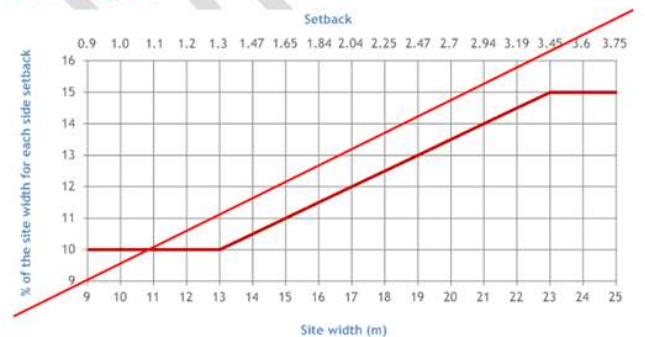
B3.2 Building envelope ▶ 3.2.3 Side setbacks

Objectives	Controls
<p>O8 To recognise built form characteristics of semi-detached dwellings and attached dwellings.</p> <p>O8 To ensure the exterior of the building is appropriately articulated.</p> <p>O9 To limit the sense of enclosure to adjoining properties.</p> <p>O10 To improve amenity and facilitate daylight and solar access to the site and adjoining properties.</p> <p>O11 To encourage opportunities to design rooms with primary windows that do not face the side elevation.</p>	<p>C6 Notwithstanding C1 to C3 above, the following variations apply:</p> <p>a) For a semi-detached dwelling—a zero setback applies at the common boundary between the pair of semi-detached dwellings.</p> <p>b) For attached dwellings—a zero setback applies at the common boundary between each dwelling within the development.</p>

Comment [DCP18]: Issue raised by staff - Simplify objectives by combining into a single objective, new objective O3.

Comment [DCP19]: Issue raised by staff and practitioners - Delete side setback sliding scale which has been simplified and converted into two tables as new Figures 5 and 6.

FIGURE 5
Side setback sliding scale



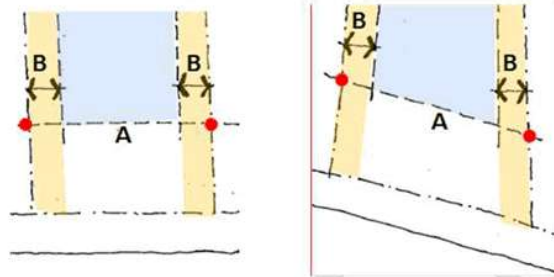
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FIGURE 4
Side setback measurement, B depends on A



Comment [DCP20]: Issue raised by staff - insert diagram to illustrate the calculation of the side setback control, and that it applied consistently along the whole side boundary.

FIGURE 5

Side setback table for dwelling houses, semi-detached dwellings and dual occupancies

A. Site width measured along front setback line in metres	B. Side setback in metres
< 9.0	0.9
9.0 - < 11.0	1.1
11.0 - < 13.0	1.3
13.0 - < 15.0	1.5
15.0 - < 17.0	1.9
17.0 - < 19.0	2.3
19.0 - < 21.0	2.7
21.0 - < 23.0	3.1
23.0 +	3.4

Comment [DCP21]: Issue raised by staff and practitioners - Delete side setback sliding scale, and replace with a simplified table.

Comment [DCP22]: Issued raised by staff - Two side setback tables have been included which replaces the setback sliding scale. The first is for dwelling houses, semi-detached dwellings and dual occupancies.

The second is for residential flat buildings, multi dwelling housing and attached dwellings.

FIGURE 6

Side setback table for Residential flat buildings, multi dwelling housing and attached dwellings, and any other land use not addressed in controls C1 to C2 of Section 3.2.3 Side setbacks

A. Site width measured along front setback line in metres	B. Side setback in metres
<18.0	1.5
18.0 - < 21.0	2.0
21.0 - < 28.0	2.5
28.0 - < 35.0	3.0
35.0 +	3.5

Comment [DCP23]: Issue raised by staff - Insert simplified table to address side setbacks for RFBs and multi dwelling housing.

Comment [DCP24]: Issue raised by staff - Insert sliding scale table for residential flat buildings, multi dwelling housing and attached dwellings.

The reduced side setbacks produce a larger building envelope which is reflective of the desired future character of locations where medium density residential development is permitted.

B3.2.4 Rear setback

The rear setback control seeks to ensure that the distance of a building from its rear boundary provides amenity to both the neighbouring sites and the proposed development.

In particular, the rear setback provides useable land for private open space and landscaping, which significantly contributes to amenity for the occupants.

~~The rear setback is the horizontal distance between the building envelope and the rear property boundary, measured parallel to the side boundaries (refer to Figure 6). The rear setback is a consequence of the front setback, site depth and building depth.~~

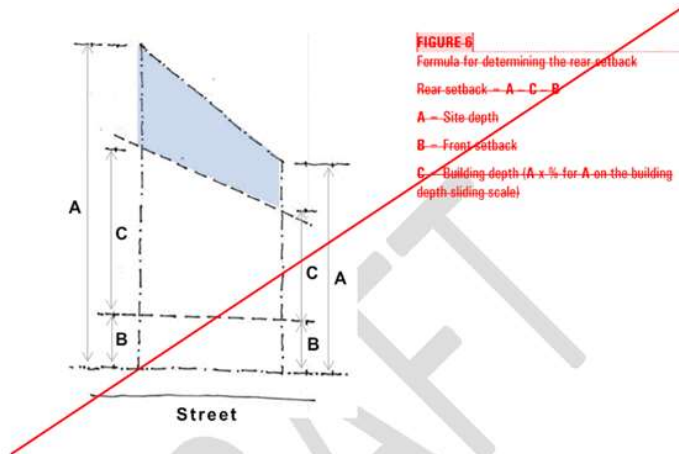
B3.2 Building envelope > 3.2.4 Rear setback

Objectives	Controls
	C1 The rear setback is a consequence of the site depth, front setback and building depth as set out in the formula at Figure 6.
O1 To provide private open space and landscaped areas at the rear of buildings.	C1 The rear setback is 25% of the site depth, being the average of the side boundaries (refer to Figure 7) and is the horizontal distance between the building envelope and the rear property boundary.
O2 To provide acoustic and visual privacy to adjoining and adjacent buildings.	
O3 To avoid an unreasonable sense of enclosure.	C2 The building depth is determined by the sliding scale in Figure 7 and applies to:
O4 To provide separation between buildings to facilitate solar access to private open space.	a) development in the R2 Low Density Residential Zone; and
O5 To protect significant vegetation and provide for landscaped area and deep soil planting.	b) a dwelling house, semi-detached dwelling or dual occupancy in the R3 Medium Density Residential zone.
O6 To contribute to a consolidated open space network with adjoining properties to improve natural drainage and support local habitat.	C3 For development in the R3 Medium Density Residential Zone where an FSR applies, the building depth is 60% of the site depth.
	C4 Notwithstanding C1 above, the minimum rear setback is 3m.
	C5 C2 If 'end to end' amalgamation occurs, the building envelope will be determined as if they were separate lots (refer to Figure 8).

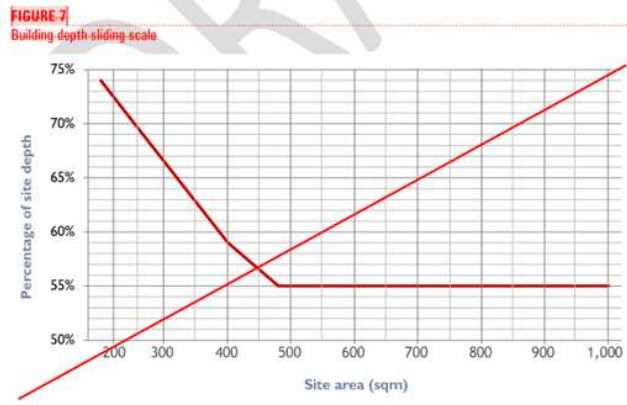
Comment [DCP25]: Issue raised by staff - In order to simplify the calculation of the rear setback, the building depth control has been replaced by a 25% rear setback

Comment [DCP26]: Issue raised by staff - In order to simplify the calculation of the rear setback, the building depth control has been replaced by a 25% rear setback

Comment [DCP27]: Issue raised by staff - Insert rear setback control of 25%.



Comment [DCP28]: Issue raised by staff - Replace existing rear setback diagram, Figure 6, with new diagram showing 25% rear setback, Figure 7.



Comment [DCP29]: Issue raised by staff - In order to simplify the calculation of the rear setback, the building depth control has been replaced by a 25% rear setback. Delete existing Figure 7.

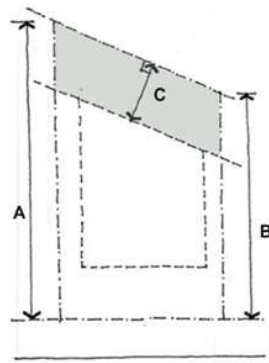


FIGURE 7
Formula for determining rear setback

A - Site depth

B - Rear setback (25% of A)

C - Rear Setback is 25% of the site depth

$$C = (A+B) / 2 \times 0.25$$

Comment [DCP30]: Issue raised by staff - New diagram inserted to illustrate how the rear setback is calculated.

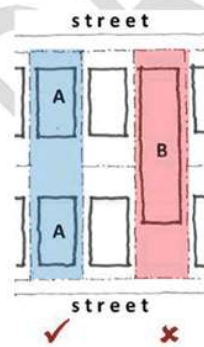


FIGURE 8
Setbacks for end to end amalgamation

When lots are amalgamated end to end, as illustrated in A and B, the rear setback requirement remains as if it were two lots, as illustrated in A. Not as illustrated in B.

B3.2.5 Wall height and inclined plane

The wall height control only applies to:

- ▶ development on land in the R2 Low Density Residential Zone; and
- ▶ dwelling houses, semi-detached dwellings and dual occupancies in the R3 Medium Density Residential zone.

A wall height of 7.2m (accommodating two storeys) and an inclined plane of 45° applies to the front, side and rear elevations. These controls respond to the typical pitched roof house form, but also potentially accommodate three storey flat roof housing forms with a reduced **top** storey.

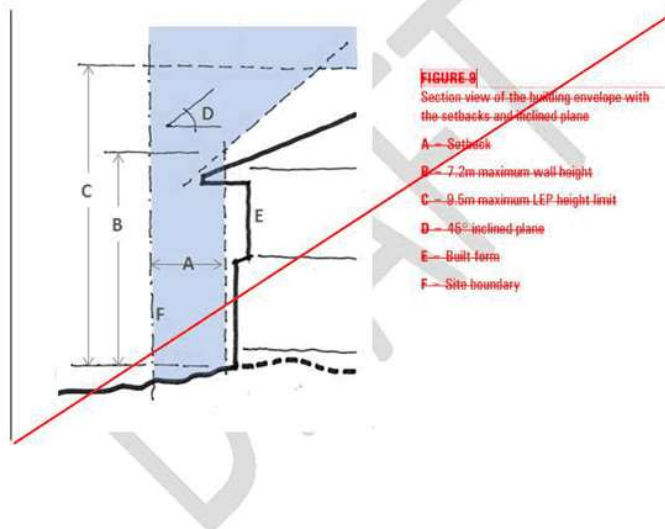
Comment [DCP31]: Administration amendment - Wording amended to reflect the new footprint control (as floorplate control has been deleted).

B3.2 Building envelope ▶ 3.2.5 Wall height and inclined plane

Objectives	Controls
O1 To limit the bulk, scale and visual impact of buildings as viewed from the street and from adjoining properties.	C1 On land zoned R2 Low Density Residential and for a dwelling house, semi-detached dwelling or dual occupancy in the R3 Medium Density Residential zone:
O2 To limit overshadowing of adjoining properties across side boundaries.	a) the wall height is 7.2m above existing ground level; and
O3 To limit overshadowing to south facing rear yards.	b) an inclined plane is taken from a point 7.2m above existing ground level at each of the setbacks (the inclined plane is at 45 degrees from horizontal); and
	c) roof eaves may protrude a maximum of 450mm into the setback if below the inclined plane.
	Refer to Figure 9.
	c.2 <u>A variation to the wall height of 7.2m may be considered where the slope of the site within the building envelope is greater than 15 degrees.</u>
	<u>The variation will only be considered to walls located nearest to the downslope section of the building envelope, ie. the section with the lowest existing ground level.</u>
	<u>A request for a variation must demonstrate that the increased wall height is consistent with the objectives of this section of the DCP, consistent with the objectives for development within the zone in which the development is proposed to be carried</u>

Comment [DCP32]: Issue raised by practitioners - Include a control which identifies where variations to the inclined planes would be supported on sloping sites.

B3.2 Building envelope ▶ 3.2.5 Wall height and inclined plane	
Objectives	Controls
	<p>out, and there are sufficient environmental planning grounds to justify the variation.</p> <p>Note: The statutory building height control in the Woollahra LEP 2014 applies.</p>



Comment [DCP33]: Existing Figure 9 replaced with new figure showing allowance for eaves, and existing grounds level.

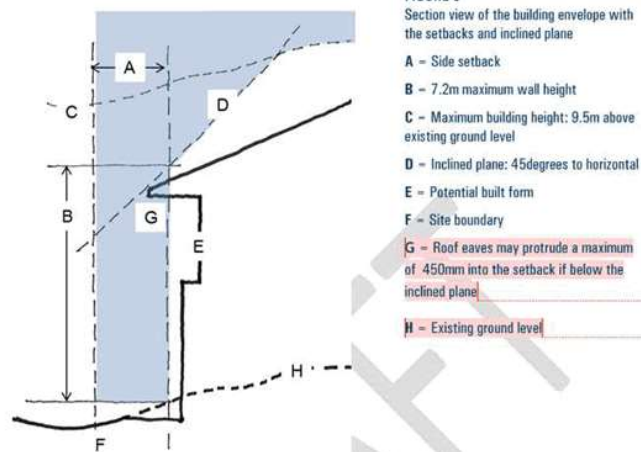


FIGURE 9
Section view of the building envelope with the setbacks and inclined plane

- A - Side setback
- B - 7.2m maximum wall height
- C - Maximum building height: 9.5m above existing ground level
- D - Inclined plane: 45degrees to horizontal
- E - Potential built form
- F - Site boundary
- G - Roof eaves may protrude a maximum of 450mm into the setback if below the inclined plane
- H - Existing ground level

Comment [DCP34]: Issue raised by staff - Amend diagram to clarify that there is an "allowance" for eaves beyond the building envelope.

Comment [DCP35]: Issue raised by staff - Clarify location of existing ground level

B3.2 Floorplates

The floorplate control only applies to:

- ▶ development on land in the R2 Low Density Residential Zone; and
- ▶ dwelling houses, semi-detached dwellings and dual occupancies in the R3 Medium Density Residential zone.

Note: The floorplate controls do not apply to land or development types where an FSR applies, such as residential flat buildings, multi-dwelling housing, or attached dwellings on land zoned R3 Medium Density Residential.

Floorplate determines amount of development

The development potential for a site is determined by the total floorplate. This is calculated as a percentage of the buildable area.

The **buildable area** is the area of the site that is identified once the front, rear and side setbacks have been established (refer to Figure 10).

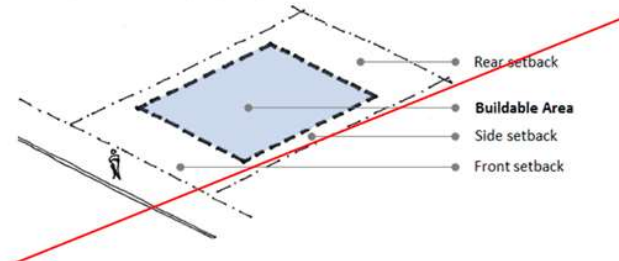
The maximum amount of development permitted on the site is determined by multiplying the buildable area by a factor of 1.65 (165%). This is the maximum permitted total floorplate.

For example if the buildable area is 150m² the maximum floorplate yield is:
150m² x 1.65 = 247.5m²

The floorplate is measured at each level. A level is defined as the space between a floor and a level above. If any part of a level is above 1m above exist ground level that area of the level is counted as floorplate (refer to Figures 11 and 12).

The total floorplate may be distributed over multiple levels, but must be wholly contained within the building envelope.

FIGURE 10 – Buildable area



Comment [DCP36]: Issue raised by staff and practitioners - Delete Floorplate control and replace with a simplified footprint control (varied by precinct).

Measuring floorplate

Floorplates are measured to include:

- ▶ the area within the external face of the external walls measured at each level, and
- ▶ the external floorplate which includes covered decks, covered balconies, entry porches, verandahs, porte-cocheres, under-crofts and the like (refer to Figures 11 and 12),

but excludes:

- ▶ uncovered external areas, such as terraces, decks and balconies, and
- ▶ levels below 1m above existing ground level (refer Figure 12).

FIGURE 11 - Measuring floorplate (aerial view)

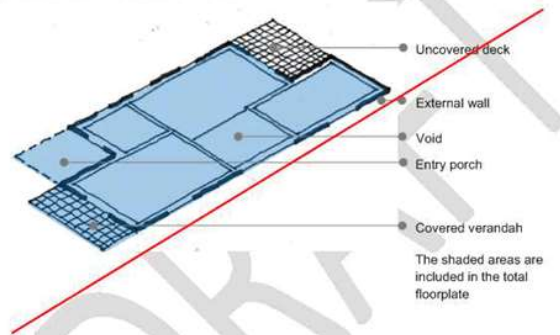
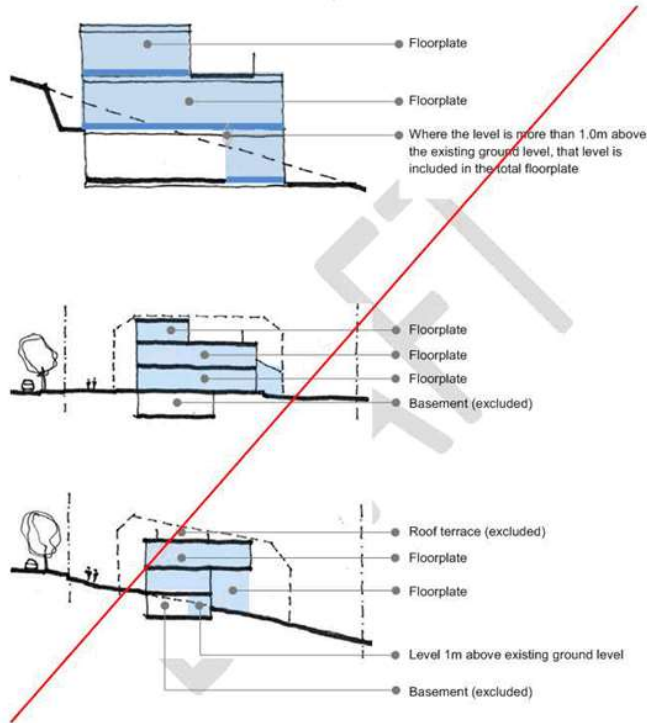


FIGURE 12 Measuring floorplate (section view)

The following examples illustrate elements of the built form that are included in the calculation of the floorplate:



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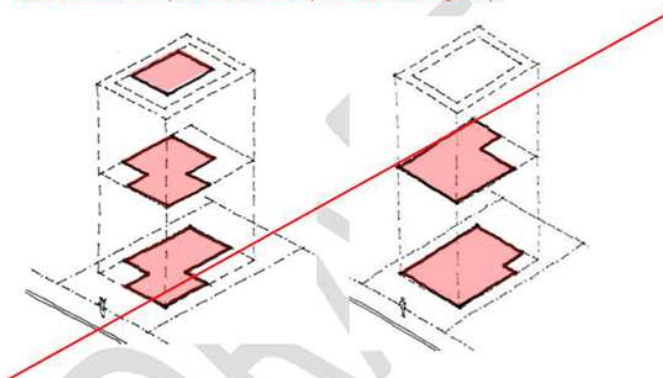
Applying the floorplate to development

Dwelling houses, dual occupancies, semi-detached and attached dwellings may have one, two or three storeys, depending on the proposed building design and the desired future character of the area.

The proposed development must be located within the building envelope.

The area of the floorplates is calculated at each level of the building. The total area of all floorplates must not be more than 165% of the buildable area.

FIGURE 13 The same floorplate distributed differently within the same building envelope.



B3.3 Floorplates

Objectives	Controls
<p>O1 To ensure buildings are consistent with the desired future character of the area.</p> <p>O2 To ensure the size and location of buildings allow for the sharing of views and minimise impact on the privacy and sunlight access to neighbouring properties.</p>	<p>C1 The total floorplate for development does not exceed 165% of the buildable area.</p> <p>C2 The floorplates at each level are wholly contained within the building envelope. (Refer to C6 for exceptions)</p> <p>C3 The floorplates at each level are distributed to:</p> <ul style="list-style-type: none"> d) respond to the predominant character of the immediate streetscape; e) retain public views; and

B3.3 Floorplates	
Objectives	Controls
	<p>f) provide for view sharing of private views.</p> <p>C4—The built form complies with solar access and privacy controls in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.</p>
O3—To encourage the design and location of car parking within the building envelope.	C5—Where car parking is provided within the building envelope, the garage area (up to 40m ²) is added to the permitted total floorplate.
O4—To allow, in certain circumstances, development outside the building envelope.	C6—Notwithstanding C2, the following buildings are permitted outside the building envelope:
O5—To allow development to respond to the topography and context.	<p>g) an outbuilding;</p> <p>parking structures but only where:</p> <p>there is rear lane access; or</p> <p>the site is located on sloping land and garaging forward of the building line is a reasonable response to the topography (as set out in Section B3.6 On-site parking, control C6)</p> <p>the existing streetscape in the immediate vicinity of the site is characterised by parking structures forward of the building line (as set out in Section B3.6 On-site parking, control C9 and C10).</p> <p>—These buildings are only permitted when:</p> <p>h) minimum deep soil landscaped area and private open space requirements are met, as set out in Section 3.7.1 Landscaped areas and private open space; and</p> <p>i) solar access and privacy requirements within the site, and to the adjoining properties, are met as set out in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.</p>

B3.3

The footprint control only applies to:

- ▶ development on land in the R2 Low Density Residential Zone; and
- ▶ dwelling houses, semi-detached dwellings and dual occupancies in the R3 Medium Density Residential zone.

Note: The footprint control does not apply to land or development types where an FSR applies, such as residential flat buildings, multi dwelling housing, or attached dwellings on land zoned R3 Medium Density Residential.

Measuring footprint

Footprint is measured to include all the site area covered by buildings; where the building is 1.2m or more above existing ground level (refer figures 10 and 11).

but excludes:

- ▶ uncovered external areas, such as terraces and decks that are less than 1.2m above the existing ground level existing ground level;
- ▶ garaging outside the building envelope where permitted;
- ▶ swimming pools less than 1.2m above existing ground level; and
- ▶ outbuildings.

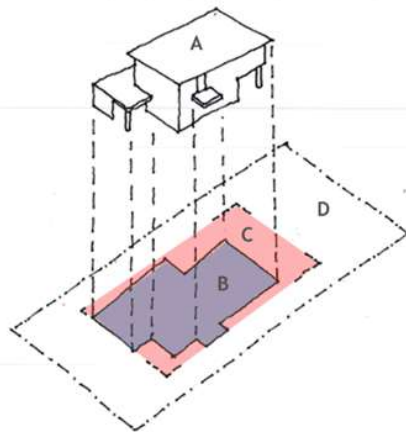


FIGURE 10 Measuring footprint

- A – Building
- B – Footprint
- C – Envelope
- D – Site

Comment [DCP37]: Issue raised by staff and practitioners - New simplified Footprint section to replace Floorplate section.

Comment [DCP38]: New diagrams inserted to illustrate the footprint calculation.
The footprint is simpler to calculate and understand by staff, practitioners and applicants.
It is related directly to the site area.

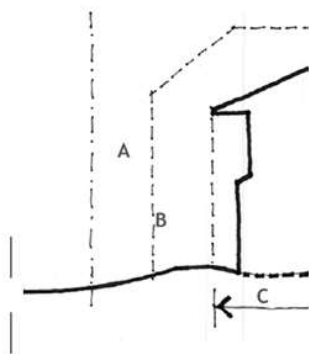


FIGURE 11
Section view of the building showing the footprint
A = Setback
B = Building envelope
C = Footprint

B3.3 Footprint	
Objectives	Controls
<p>O1 To ensure buildings are consistent with the desired future character of the area.</p> <p>O2 To ensure the size and location of buildings allow for the sharing of views and minimise impact on the privacy and sunlight access to neighbouring properties.</p>	<p>C1 The total footprint for development does not exceed the percentage of the site area determined by the footprint table (refer to Figure 12).</p> <p>C2 The footprint is wholly contained within the building envelope (refer to C6 for exceptions).</p> <p>C3 The footprint is positioned to:</p> <ul style="list-style-type: none"> a) respond to the predominant character of the immediate streetscape; b) retain public views; and c) provide for view sharing of private views. <p>C4 The built form complies with solar access and privacy controls in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.</p>
<p>O3 To encourage the design and location of car parking within the building envelope.</p>	<p>C5 Where a car parking structure (garage or carport) is wholly or partly provided within the building envelope and the top of the garaging is more than 1.3m above the existing ground level, half the area of the car parking</p>

Comment [DCP39]: The 165% floorplate control has been deleted and replaced with the footprint table in Figure 12.
The table is based on precinct and varies according to lot size.

Comment [DCP40]: This control is adapted to the footprint control to encourage the garaging to be within the envelope. 20m² is added to the percentage footprint. This equates to 50m² inside the envelope where it can be built to 2.5 levels.

B3.3 Footprint	
Objectives	Controls
	structure within the building envelope (up to 20m ²) is added to the permitted total footprint".
O4 To allow development to respond to the topography and context.	<p>C6 Notwithstanding C2, the following buildings are permitted outside the building envelope:</p> <ul style="list-style-type: none"> a) an outbuilding (refer B3.7.4) b) parking structures that comply with B3.6 On-site Parking requirements where: These buildings are only permitted when: c) minimum deep soil landscaped area and private open space requirements are met, as set out in Section 3.7.1 Landscaped areas and private open space; and d) solar access and privacy requirements within the site, and to the adjoining properties, are met as set out in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.

Figure 12 Footprint table

Site area (square metres)	Percentage of site areas permitted as footprint (%)	
	All precincts (other than Point Piper)	Point Piper
< 200	55	55
200 - < 250	47	48
250 - < 300	41	44
300 - < 350	37	41
350 - < 400	33.5	38
400 - < 450	31	36.5
450 - < 500	30.5	35.5
500 +	30	35

Comment [DCP41]: The proposed footprint table indicates the % of the site which can be occupied by the building.
Note that smaller sites have a greater allowed percentage of the site to be covered. This is a translation of the current approach.
It is recommended that the footprint control is varied for Point Piper to reflect the desired future character.

B3.4 Excavation

Excavation is an accepted part of development in the Woollahra Municipality where the topography varies. Excavation allows buildings on the sloping sites to be designed to step down and sit into the hillside, and it also enables cars and storage to be accommodated on site in an unobtrusive manner.

However, there are significant environmental impacts associated with extensive excavation, as well as external impacts, such as amenity impacts to adjoining properties during the excavation process.

Council has determined that the volume excavated from a given site should be limited to that which might reasonably be required for car parking and domestic storage requirements, and to allow the building to respond to the site topography in an appropriate manner.

B3.4 Excavation	
Objectives	Controls
O1 To allow buildings to be designed and sited to relate to the topography with minimal cut and fill.	C1 For a dwelling house, dual occupancy or semi-detached dwelling (including attached and detached garaging) – the maximum volume of excavation permitted is no greater than the volume shown in Figure 13.
O2 To minimise excessive excavation.	
O3 To limit damage to Council infrastructure, such as roads, from truck movements.	C2 For a residential flat building, multi dwelling housing, or attached dwelling development (including attached and detached garaging) – the maximum volume of excavation permitted is no greater than the volume shown in Figure 14.
O4 To restrict energy expenditure associated with excavation and traffic emissions from truck movements.	
O5 To ensure the cumulative impacts of excavation do not adversely impact land stabilisation, ground water flows and vegetation.	C3 For any other use (including attached and detached garaging) not addressed in C1 and C2 above – the maximum volume of excavation permitted is no greater than the volume shown in Figure 14. C4 A variation to the volume shown in Figures 14 and 15 will be considered, however the maximum volume of excavation permitted will only be the amount needed to accommodate: a) car parking to comply with the maximum rates in Part E1 of this DCP and any reasonable access thereto, if the maximum car parking rates are required by the Council; and b) storage at a rate of 20m ³ (cubic metres) per dwelling if for a dwelling house, dual occupancy, semi-detached

- Comment [DCP42]:** Issue raised by practitioners - Delete part of this objective. Cut and fill is generally a reasonable and necessary part of building on a sloping site.
- Comment [DCP45]:** Issue raised by staff - Excavation controls should also apply to the 'attached and detached garaging'.
- Comment [DCP43]:** Issue raised by staff - Delete the word "excessive". It is not required.
- Comment [DCP44]:** Issue raised by practitioners - Lack of evidence to justify the inclusions of these objectives.

B3.4 Excavation	
Objectives	Controls
	dwelling or attached housing; or c) storage at a rate of 8m ³ (cubic metres) per dwelling if for a residential flat building or multi dwelling housing development.
	C5 The volume controls in C1 and C2 above do not apply to backyard swimming pools and tennis courts located outside the building envelope. (Note: Separate controls apply which limit excavation, refer to Section 3.7.4 Ancillary development - swimming pools, tennis courts and outbuildings).
O406- To minimise structural risks to adjoining structures.	C6 Sub-surface Basement walls are no closer to the boundary than permitted by the setback controls (refer to Figure 15).
O507- To minimise noise, vibration, dust and other amenity impacts to adjoining and adjacent properties.	C7 Notwithstanding C6, basement walls for residential flat buildings, multi dwellings housing and attached dwellings are no closer to the boundary than 1.5m (see Figure 16).
	C8 Excavation in relation to an existing attached dwelling, semi-detached dwelling, or attached dual occupancy is not to occur under: a) common party walls; b) footings to common party wall; c) freestanding boundary walls; d) footings to freestanding boundary walls.
	C9 Excavation below 2m and/or within 1.5m of the boundary is accompanied by a geotechnical and hydrogeological report and a structural report demonstrating that the works will not have any adverse effect on neighbouring structures. Note: Council may identify other circumstances where these reports are required. All reports must be prepared in accordance with Council's guidelines. Council may also require the preparation

Comment [DCP46]: Issue raised by staff - Term "sub-surface" replace with "basement" in all instances, for consistency with LEP Standard Instrument definition.

Comment [DCP47]: Issue raised by staff - Basement walls can be 1.5m from the boundary for medium density dwelling types to facilitate subterranean car parking.

B3.4 Excavation	
Objectives	Controls
	and submission of a pre-commencement dilapidation report for properties neighbouring the development.

FIGURE 13
 Maximum volume of excavation for the site of:
 - a dwelling house
 - dual occupancy development
 - a semi-detached dwelling

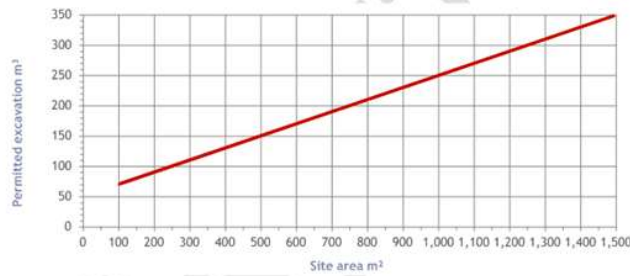
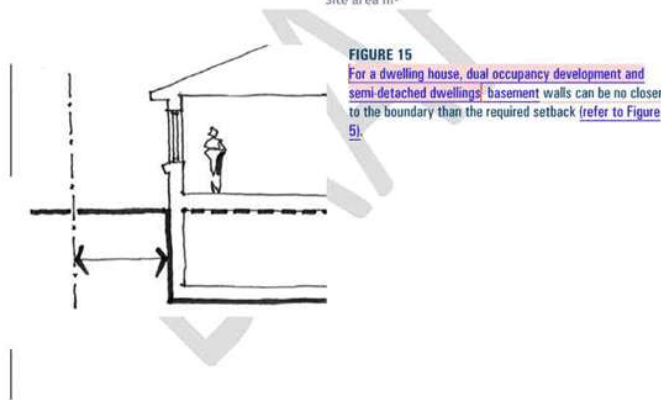
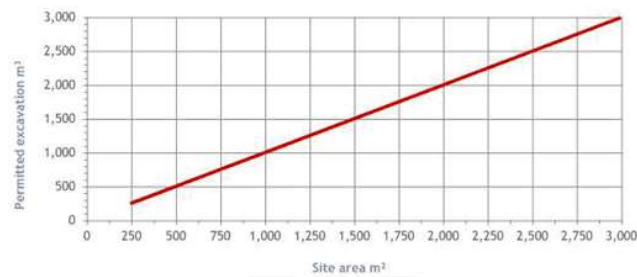


FIGURE 14
Maximum volume of excavation for the site of:
- a residential flat building
- multi dwelling housing
- attached dwellings
- any other land use not addressed in controls C1 to C2 of Section B3.4 Excavation



Comment [DCP48]: Issue raised by staff - Basement excavation separation from the side boundary for dwelling house, dual occupancy development and semi-detached dwellings have been distinguished from those for residential flat buildings, multi dwelling housing and attached dwellings.

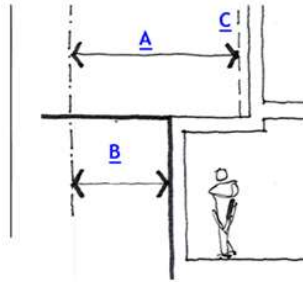


FIGURE 16
For a residential flat building, multi dwelling housing, attached dwellings and any other land use not addressed in controls C1 to C2 of Section B3.4 Excavation, basement walls can be no closer to the boundary than 1.5m.

- A- Refer Figure 6
- B- Minimum setback 1.5m
- C- Building envelope

Comment [DCP49]: Issue raised by staff - For residential flat buildings, multi dwelling housing and attached dwellings the site can be excavated to 1.5m from the side boundary. Diagram inserted to demonstrate this. This facilitates basement car parking.

B3.5 Built form and context

B3.5.1 Streetscape character

A quality streetscape provides good public amenity and contributes to the character and identity of the locality. As character can vary from street to street, it is important that development recognises predominant streetscape qualities, such as building form to ensure a cohesive streetscape character.

B3.5 Built form and context ▶ 3.5.1 Streetscape character	
Objectives	Controls
O1 To ensure that the built form is compatible with the streetscape and the desired future character of the area.	C1 The building is consistent with the desired future character of the area set out in the precinct controls in Parts B1 and B2 of this DCP.
	Note: Chapters B1 and B2 in this part of the DCP define the desired future character for each precinct or HCA, and identify special streetscape character, heritage and key elements within each precinct.
	C2 Development retains existing mature or significant vegetation.
O2 To ensure that development is of high visual quality and enhances the street.	C3 Development steps down sloping sites and follows the topography of the land.
	C4 External building materials and colours do not detract from the streetscape. Bright or obtrusive colour schemes are avoided.
O3 To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings.	C5 In heritage conservation areas or where the existing the immediate streetscape is predominantly characterised by pitched roof forms, new development incorporates pitched roof forms.
	C6 Roof materials are non-reflective and do not cause excessive glare to adjacent properties.
O4 To ensure that roof forms are consistent with the existing predominant roof forms in the street and minimise impacts to neighbouring properties.	C7 The building addresses the street and provides opportunities for casual surveillance. At least one habitable room window overlooks the street.
O5 To ensure buildings improve the safety of the public domain.	

B3.5.2 Overshadowing

Building bulk should be distributed to minimise overshadowing to neighbouring properties.

Development is to be sited and designed to maximise midwinter solar access to neighbouring properties, having regard to slope, views and existing vegetation.

B3.5 Built form and context ▶ 3.5.2 Overshadowing

Objectives	Controls
O1 To minimise overshadowing to adjoining properties.	<p>C1 The development is designed so that:</p> <ul style="list-style-type: none">a) sunlight is provided to at least 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight is not further reduced; andb) north facing windows to upper level habitable rooms of adjacent dwellings receive at least 3 hours of sun between 9am and 3pm on 21 June over a portion of their surface. <p>C2 Lot orientation may make C1 above difficult to achieve so a reduced amount of solar access may be considered, provided the proposed building complies with all setback controls.</p> <p>Note: For land adjoining open space also refer to Section 3.10.1.</p>

B3.5.3 Public and private views

Views are a special element of Woollahra's unique character. The sloping topography, leafy setting and harbour frontage combine to offer dramatic bushland and water views which contribute to the amenity of both private dwellings and the public domain.

In addition, the municipality's frontage to Sydney Harbour places responsibilities upon the Woollahra community, to ensure development maintains the scenic beauty of the foreshore and headland areas when viewed from the water and from the land.

Public views

Public views from streets, footpaths, parks and other public areas are among Woollahra's most prized assets and are key elements of the municipality's identity.

These views may take the form of discrete views between buildings and vegetation, more open views across the harbour and local landscape from public parks, or more defined vistas along streets terminating at Sydney Harbour or local landmarks. Important views and vistas are identified on the precinct maps in Chapters B1 and B2 in this part of the DCP.

The preservation and, wherever possible, enhancement of public views helps to maintain legibility within Woollahra by allowing people to see and interpret the surrounding landscape and landmark features. Public views also allow Woollahra's scenic beauty and special character to be appreciated.

Private views

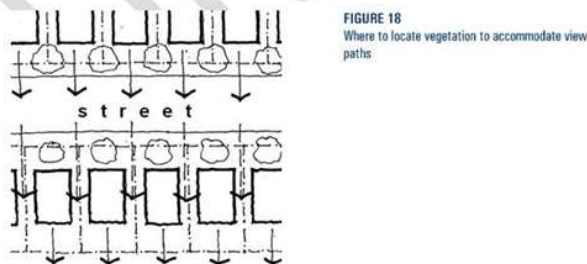
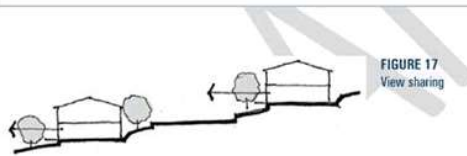
View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties.

Development should be designed to reflect the view sharing principles in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*.

B3.5 Built form and context ▶ 3.5.3 Public and private views	
Objectives	Controls
O1 To protect and enhance existing views and vistas from the public domain.	C1 Development is sited and designed so that the following public views are maintained or enhanced:
O2 To provide additional views and vistas from streets and other public spaces where opportunities arise.	a) significant views and vistas identified in the precinct maps in this Chapter B1 Residential Precincts and Chapter B2 Neighbourhood HCAs of this DCP; and b) views from other public open space areas, particularly from ridgelines to Sydney Harbour and the Sydney CBD

B3.5 Built form and context ▶ 3.5.3 Public and private views	
Objectives	Controls
	skyline.
	C2 Vistas along streets are preserved or enhanced through sensitive development location and form.
	C3 Development on the low side of the street preserves district, iconic and harbour views from the street by: <ul style="list-style-type: none"> a) providing substantial breaks between buildings, front fences, car parking and other structures; and b) incorporating fences with transparent or open end panels at each side boundary to provide for views.
	C4 Roof forms on the low side of streets are designed to allow public views and add interest to the scenic outlook. Flat expansive roofs with vents, air conditioning units and similar structures are inappropriate.
O3 To encourage view sharing as a means of ensuring equitable access to views from private property.	C5 Development is sited and designed to enable a sharing of views with surrounding private properties, particularly from the habitable rooms (refer to Figures 17 and 18).
	C6 Development steps down the hillside on a sloping site.
	C7 The design of the roof form provides for view sharing.
	C8 Roof terraces are uncovered to provide for view sharing. All elements on roof terraces are to comply with the maximum building height control.

B3.5 Built form and context ▶ 3.5.3 Public and private views	
Objectives	Controls
O4 To ensure that views are not compromised by inappropriate landscaping.	<p>C9 The location and species of new tree planting frames and preserves public and private views. Planting must not be used to block views.</p> <p>C10 In sloping areas, the location of new tree planting frames and preserves public views. This may be achieved:</p> <ul style="list-style-type: none"> a) on the high side of streets—by concentrating new tree planting at the front of buildings within the side setbacks; and b) on the low side of streets—by concentrating new tree planting at the front of buildings outside the side setbacks (refer to Figure 18).



B3.5.4 Acoustic and visual privacy

Privacy refers to both acoustic and visual privacy. The privacy needs of residents and neighbours should influence all stages of design, from the location of buildings and the placement of windows and private open space through to the selection of materials and construction techniques.

This section contains objectives and controls for acoustic and visual privacy for buildings that have the potential to impact on adjoining and adjacent residential development.

It is important to note however, that privacy issues are an inherent component of urban living. In many cases some degree of mutual overlooking and/or noise from property to property is unavoidable.

Acoustic privacy

The level of acoustic privacy depends upon the location of habitable rooms relative to noise sources such as habitable rooms, decks, terraces, driveways, air conditioning units, swimming pool pumps and major roads.

Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings. This may be achieved by:

- ▶ ensuring that bedrooms of one dwelling do not share walls with the habitable rooms (excluding bedrooms) or parking areas of the adjacent dwelling;
- ▶ locating bedroom windows at least 3m from streets, shared driveways and parking areas of other dwellings; and
- ▶ separating bedrooms, by way of barriers or distance, from on-site noise sources such as active recreation areas, car parking area, vehicle accessways and service equipment areas.

Visual privacy

The visual privacy controls apply to habitable rooms. This includes rooms such as a bedroom, living room, lounge room, kitchen, dining room and the like. Maintaining visual privacy within and from these types of habitable rooms is most important, as these are the common living areas in a dwelling. The controls also address the private open spaces of dwellings.

The controls establish a hierarchical framework for addressing privacy and overlooking. In this hierarchy glazed fixed windows and windows with high sills are the least preferred option and should only be considered in limited circumstances when all other options have been exhausted.

Note:

- ▶ Under the BCA, habitable rooms exclude a bathroom, laundry hallway, lobby, and other like spaces of a specialised nature occupied neither frequently nor for extended periods.
- ▶ Nothing in this section restricts a person from replacing a window with another window, where the replacement window is in the same location and of the same or a smaller size.

B3.5 Built form and context ▶ 3.5.4 Acoustic and visual privacy

Objectives	Controls
O1 To ensure adequate acoustic privacy for occupants and neighbours.	<p>C1 Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings.</p> <p>C2 Dwellings located close to high noise sources, such as a busy road or railway line are to:</p> <ul style="list-style-type: none"> a) be designed to locate habitable rooms and private open space away from the noise source; and b) include sound attenuation measures, such as acoustic glazing and insulation. <p>Note: Shared walls and floors between dwellings must be designed in accordance with the sound transmission and insulation criteria of the Building Code of Australia.</p> <p>C3 Electrical, mechanical, hydraulic and air conditioning equipment is housed so that it does not create an 'offensive noise' as defined in the Protection of the <i>Environment Operations Act 1997</i> either within or at the boundaries of any property at any time of the day.</p>
O2 To ensure adequate visual privacy for occupants and neighbours while balancing the need to provide for reasonable levels of environmental amenity, including access to sunlight and ventilation, and good architectural outcomes.	<p>C4 New windows in habitable rooms are designed to prevent a direct sightline to the habitable room windows or <u>private open space</u> of an adjacent dwelling within 9m.</p> <p>This may be achieved by options including, but not limited to (in order of preference):</p> <ul style="list-style-type: none"> a) Window location—primary windows to habitable rooms are located and designed to provide an outlook to the front and rear setbacks, not the side boundaries. b) Layout and separation—offsetting windows from the windows/<u>private open spaces</u> of the adjoining dwelling to limit views between the windows/<u>private open space</u>. c) Architectural design solutions and devices—redirecting and limiting sightlines using deep sills with planter

Comment [DCP50]: Issue raised by staff - The addition of private open space to this control safeguards the privacy of adjacent properties.

B3.5 Built form and context ▶ 3.5.4 Acoustic and visual privacy

Objectives	Controls
	<p>boxes, fixed horizontal or vertical louvres, or other screening devices set off the windows internally or externally.</p> <p>d) Glazed opening windows—using windows with translucent glazing to a height of 1.5m above floor level and fitted with a winder mechanism to control the maximum angle of the opening to limit views.</p> <p>e) Glazed fixed windows or high sills—using fixed windows with translucent glazing in any part of the window below 1.5m above floor level, or window sill heights of 1.5m above floor level.</p> <p>Note: Applicants may be required to demonstrate how privacy impacts are resolved by way of view line diagrams, photographs and other suitable means.</p> <p>C5 Windows to bathrooms and toilet areas have translucent glazing where these have a direct view to, and from, habitable rooms and private open space on adjoining and adjacent properties.</p> <p>C6 Architectural design solutions and screening devices referred to in C4 (c) above are integrated with the overall design and contribute to the architectural merit of the building, having particular regard to:</p> <ul style="list-style-type: none">a) aesthetics of the building including impacts on visual bulk;b) compliance with minimum boundary setback controls;c) appearance from adjoining properties; andd) views from adjoining or adjacent properties.

B3.5 Built form and context ▶ 3.5.4 Acoustic and visual privacy

Objectives	Controls
O3 To minimise the impacts of private open space areas when located above ground level area.	<p>C7 Balconies, decks, terraces including roof terraces, and the like, within a development are suitably located and screened to prevent direct views into habitable rooms (including bedrooms) or private open space of the adjoining and adjacent dwellings.</p> <p>C8 For a dwelling house, dual occupancy, semi-detached dwelling, or attached dwelling—the acceptability of any elevated balcony, deck, or terrace will depend on the extent of its impact, its reasonableness and its necessity. <i>Note: Refer to Super Studio vs Waverley Council, (2014) NSWLEC 91</i></p> <p>C9 Windows and balconies of an upper-level dwelling are designed to prevent overlooking of the private open space of a dwelling below within the same development.</p> <p>C10 The trafficable area of a roof terrace or upper level decks <u>above the second storey</u> is setback so that there is no direct line of sight, from that part of the building where the terrace or deck is, to: <ul style="list-style-type: none"> a) neighbouring private open space within 12m; or b) windows of habitable rooms in neighbouring dwellings within 12m. </p> <p>C11 Lighting installations on a roof terrace or upper level deck are: <ul style="list-style-type: none"> a) contained within the roof terrace area and located at a low level; or b) appropriately shaded and fixed in a position so light is projected downwards onto the floor surface of the terrace. <i>Note: Lighting of roof terraces must be designed in compliance with Australian Standards 4282-1997 Control of obtrusive effects of outdoor lighting.</i> </p>

Comment [DCPS1]: Issue raised by staff - in response to officer feedback, clarification that a roof terrace can only be found above storey 2.

B3.5 Built form and context ▶ 3.5.4 Acoustic and visual privacy

Objectives	Controls
O4 To ensure that where roof terraces are inserted into existing roofs, they do not impact on the roof profile.	C12 For a roof terrace within the existing roof a building: a) no part of the roof terrace or associated structures, such as a balustrade, projects beyond the roof profile; and b) the roof terrace and opening within the roof are clearly subservient in form and size when compared with the roof plane in which they are located.

B3.6 On-site parking

On-site parking, including garages, carport, hardstand areas and driveways, must be carefully designed to not detract from the appearance of the development and the streetscape.

In particular, on-site parking should not dominate the street frontage, and driveway openings should be limited to protect pedestrian safety and to preserve streetscape amenity such as trees and on-street parking. On-site parking should also be designed to limit the extent of impervious surfaces and excavation and to allow landscaped area in the front setback.

Note: The number of on-site parking spaces for a development is set out in Part E, Chapter E1 Parking and Access.

B3.6 On-site parking	
Objectives	Controls
O1 To minimise the visual impact of garages, car parking structures and driveways on the streetscape.	C1 On-site parking is designed and located so that it: <ul style="list-style-type: none"> a) does not dominate the street frontage; b) preserves significant trees and vegetation; and c) is located within the <u>buildable area building envelope</u>.
O2 To ensure that on-site parking does not detract from the streetscape character and amenity.	C2 For garages facing the street frontage – the maximum garage width is no greater than 40% of the site frontage width or 6m, whichever is the lesser.
O3 To minimise loss of on-street parking.	<p>C3 Where possible, on-site parking is to be accessed from the rear. Parking can occupy 75% of the rear frontage or 6m, whichever is the lesser and, is to be no more than 40m².</p> <p><u>C3 Where possible on-site parking is to be accessed from the rear. The width of parking structures can occupy 75% of the rear frontage or 6m (whichever is the lesser). The area of the parking structure can be no greater than 40m² and a maximum of 3.6m high.</u></p>
	C4 Where there is no rear lane access, on-site parking is located within the

Comment [DCP52]: Administration amendment - Removed 'buildable area' which is no longer used in B3.

Comment [DCP53]: Issue raised by staff - Proposed control to limit garages to a maximum of 3.6m in height, to control the bulk of garaging outside the envelope.

Comment [DCP54]: Issue raised by staff - Control amended to clarify the difference between "width" and "area". Insert control to address height.

B3.6 On-site parking	
Objectives	Controls
	building envelope.
	C5 Development involving three or more dwellings provides basement parking.
O4 To facilitate on-site parking on steeply sloping sites.	<p>C6 Notwithstanding C4, garages may be located in the front setback (i.e. outside the building envelope) where:</p> <ul style="list-style-type: none"> a) the rise or fall measured to a distance of 7m from the street frontage is greater than 1 in 3; and b) the garage is incorporated into a podium or street wall; and c) the garage is not more than 40m² in area. <p>C7 For garages located in the front setback, the maximum height of the garage structure is 2.7m above the footpath level. If the existing height of the retaining/street wall or the two adjoining garages structures is higher than 2.7m, that greater height may be permitted (refer to Figure 19).</p> <p>C8 For garages on the high side of the street – balustrading to trafficable areas on top of the garage is setback at least 1m from the front boundary, and is of an open or transparent form (refer to Figure 20).</p>
O5 To ensure that on-site parking is designed and integrated with the principal building on the site.	C9 For separate structures, the roof form, materials and detailing complement the principal building.
O6 To ensure that on-site parking does not detract from the streetscape character and amenity.	<p>C10 Garage doors are designed to complement the building design and any important character elements within the street.</p> <p>C11 Materials characteristic of the street are used for new structures at the street edge.</p>

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B3.6 On-site parking	
Objectives	Controls
07 To minimise the visual and environmental impacts of driveways and other hard stand areas associated with car parking.	<p>C12 The width of driveways is minimised. Generally the width is no more than the minimum width required to comply with the relevant Australian Standards (see Section E1).</p> <p>C13 Only one driveway entrance is provided. For example, development involving more than one dwelling shares the driveway access.</p> <p>C14 Where soil and drainage conditions allow, semi-porous surfaces are used for uncovered car parking and driveway areas to facilitate on-site stormwater infiltration and reduce limit the visual impact of hard-surface areas.</p>

FIGURE 19
Garaging in front setback

On sites where the gradient measured to a distance of 7m (A) from the street frontage is greater than 1 in 3 (B), Council may permit garages forward of the building line if incorporated into a podium/street wall.

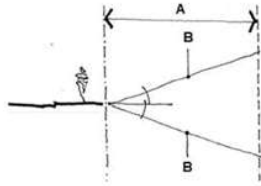
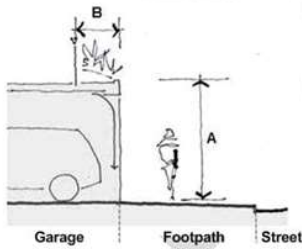


FIGURE 20
Garaging at front boundary

A - The garage height at the front boundary is to be no more than 2.7m above the pavement
B - Any balustrading on the garage is to be set back 1m



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B3.7 External areas

B3.7.1 Landscaped areas and private open space

Open space and landscaping play important roles in the preservation of wildlife habitat, the establishment of community identity, the provision of recreation opportunities and stormwater management.

Private open space

Private open space contributes towards the amenity of individual dwellings and should be clearly delineated from public and communal areas. Private open space may be provided at or above ground level. Above ground open space may comprise balconies or rooftop areas.

Communal open space

Communal open space comprises shared open space available for use by all residents of a housing development. Communal open space may include landscaped areas, swimming pools or tennis courts and is typically controlled by a body corporate.

Landscaping

Landscaped area is defined in Woollahra LEP 2014 to mean "a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area".

Deep soil landscaped area is the part of a site that contains landscaped area which has no above ground, ground level or subterranean development.

Landscaped areas within developments may comprise both communal and private open space areas. Landscape treatment helps to determine the amenity of individual dwellings, define private and public areas, reinforce or screen views and define streetscape character.

The amount and composition of landscaped area also plays an important role in stormwater management, the energy efficiency of developments and access to sunlight. Existing trees and vegetation may support significant indigenous wildlife populations and habitat.

B3.7 External areas ▶ 3.7.1 Landscaped area and private open space

Objectives	Controls
O1 To ensure that the areas outside the footprint contribute to the desired future character of the location.	C1 For development in the R2 and R3 residential zones—at least 50% 40% of the site area outside the buildable area footprint is deep soil landscaped area.
O2 To provide sufficient deep soil landscaped area to support substantial vegetation.	C2 At least 40% of the front setback comprises deep soil landscaped area, and: <ul style="list-style-type: none"> a) for a residential flat building or multi dwelling housing in the Wallaroy, Manning Road, Darling Point, Bellevue Hill South, Bellevue Hill North or Rose Bay precinct—at least one consolidated area of the deep soil area is at least 20m²; and b) for a residential flat building or multi dwelling housing in the Double Bay or Point Piper precinct—at least one consolidated area of the deep soil area is at least 12m².
O3 To provide for on-site stormwater absorption.	C3 Control C2 above does not apply to land in Rose Bay between Caledonian Road and Vickery Avenue zoned R3 Medium Density Residential. C4 At least 50% of the rear setback comprises deep soil landscaped area. C5 The deep soil landscaped area is free of garaging, paving, outbuildings, tennis courts, swimming pools, above ground and below ground structures including stormwater works.
O4 To ensure the adequate provision of accessible and useable primary open space.	C6 For a dwelling house—a primary open space area of at least 35m ² is provided. C7 For each dwelling within a semi-detached dwelling, dual occupancy or attached dwelling—a primary open space area of at least 35m ² is provided. C8 The primary open space area in C6 and C7 above has a gradient of no more than 1 in 10 (refer to Figure 21). C9 Excavation is permitted to achieve the required level area of primary open space

Comment [DCP55]: Issue raised by staff - amend area of deep soil landscaping consistent with the new footprint control.

B3.7 External areas ▶ 3.7.1 Landscaped area and private open space	
Objectives	Controls
	<p>up to 1.2m from existing ground level (refer to Figure 21).</p> <p>C10 Part of the primary open space area is directly accessible from a habitable room.</p>
<p>O5 To ensure that dwellings in residential flat buildings and multi dwelling housing are provided with adequate private open space that enhances the amenity of the dwellings.</p>	<p>C11 For residential flat building or multi dwelling housing—each dwelling is provided with private open space which has a minimum area of 8m² and minimum dimensions of 2m x 2m. For dwellings above ground level, this may be in the form of a balcony, verandah or uncovered roof terrace and the like.</p>
<p>O6 To ensure that private open space areas are well-designed.</p>	<p>C12 Development takes advantage of opportunities to provide north facing private open space to achieve comfortable year round use.</p> <p>C13 Private open space is clearly defined for private use through planting, fencing or landscape features.</p> <p>C14 The location of private open space:</p> <ul style="list-style-type: none"> a) takes advantage of the outlook and natural features of the site; b) reduces the adverse privacy and overshadowing impacts; and c) addresses surveillance and privacy where private open space abuts public space. <p>C15 A roof terrace and associated structures will only be considered where the size, location and design of the terrace meets the requirements in Section 3.5.4 Acoustic and visual privacy.</p>

B3.7 External areas ▶ 3.7.1 Landscaped area and private open space	
Objectives	Controls
O7 To retain important existing mature trees, vegetation and other landscape features.	C16 Existing significant trees and vegetation are incorporated into the landscape area and treatment.
O8 To protect or enhance indigenous wildlife populations and habitat through appropriate planting of indigenous vegetation species.	C17 Native species are preferred, and landscape designs are encouraged to provide at least 50% of the plants as native species.
O9 To ensure that landscaping contributes positively to the streetscape and the amenity of adjoining residents.	C18 Landscaping provides for a diversity of native species and a complexity of habitat through vertical layering. Note: Vertical layering, by planting a variety of vegetation in different sizes and heights provides more cover and feeding opportunities for wildlife species.
O10 To ensure that landscaping allows view sharing.	C19 Landscaping facilitates the linking of open space reserves through wildlife corridors and reduces habitat fragmentation and loss.
	C20 The landscape design: <ul style="list-style-type: none"> a) uses vegetation types and landscaping styles which contribute to the streetscape and desired future character objectives for the locality; b) uses vegetation types that will not block views; c) does not adversely affect the structure of the proposed building or buildings on adjoining properties; d) considers personal safety by ensuring good visibility along paths and driveways and avoiding shrubby landscaping near thoroughfares; e) contributes to energy efficiency and amenity by providing substantial shade in summer, especially to west facing windows and open car park areas and admitting winter sunlight to outdoor and living areas and other habitable rooms; f) improves privacy between dwellings;

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B3.7 External areas ▶ 3.7.1 Landscaped area and private open space	
Objectives	Controls
	<p>g) minimises risk of damage to overhead power lines and other services; and</p> <p>h) provides adequate sight lines for vehicles and pedestrians, especially near street corners and intersections.</p>

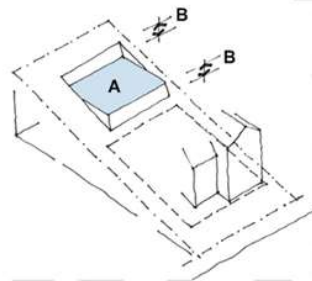


FIGURE 21
Provision of level area of primary open space
A - Minimum area 35m², maximum gradient 1:10
B - Primary open space is to be no more than 1.2m above or below existing ground level

B3.7.2 Fences

Fences and walls play major roles in determining the appearance of developments and their contribution towards the streetscape. Carefully designed fences and walls help to integrate developments into the existing streetscape. However, when poorly designed they can unduly dominate the streetscape and reduce opportunities for neighbourhood surveillance and social interaction.

This DCP seeks to recognise both the importance of fences and walls to the privacy and security enjoyed by individual properties and the potential of fences and walls to contribute to creating or enhancing attractive streetscapes.

B3.7 External areas ▶ **3.7.2 Fences**

Objectives	Controls
O1 To ensure fences and walls improve amenity for existing and new residents and contribute positively to streetscape and adjacent buildings.	C1 Fencing is designed and located to protect the inhabitants of the property, and allows for casual surveillance from the building to the street.
O2 To ensure that fences and walls are not visually intrusive in the streetscape <u>and to enhance pedestrian safety.</u>	C2 The arrangement of built form, fences, landscaping and other features clearly defines any public, common, and private space.
O3 To ensure that fences and walls do not unreasonably restrict views and vistas from streets and other public spaces.	C3 Front fences and walls assist in defining building entrances.
O4 To ensure that development creates well defined areas of public and private space.	C4 The height of front fences does not exceed: a) 1.2m if solid; or b) 1.5m if 50% transparent or open; unless otherwise specified in the precinct controls in Chapters B1 and B2 of this part of the DCP. Note: Chapters B1 and B2 define the desired future character for each precinct, and identify any special heritage, streetscape character and key elements within each precinct. C5 Fences <u>and gates</u> on the low side of the street incorporate transparent or open panels to adjacent to each side boundary incorporate transparent or open panels to preserve district, iconic and harbour views from the street.

Comment [DCP56]: Issue raised by staff - Amend objective to address concerns regarding pedestrian safety.

Comment [DCP57]: Issue raised by staff - Amend control to clarify that front fences facilitate views.

B3.7 External areas ▶ 3.7.2 Fences	
Objectives	Controls
	<p>C6 On the high side of streets where there is an increase in ground level in excess of 1.2m on the property side of the street alignment—the height of front fences and walls may increase to 1.2m from the level of the high side (refer to Figure 22).</p> <p>C7 Gates do not encroach over the street alignment when opening or closing.</p> <p>C8 Where a vehicular entrance is proposed in conjunction with a fence of height greater than 1.2m—a 45° splay or its equivalent is provided either side (as applicable) of the entrance to ensure driver and pedestrian vision. The splay is to have minimum dimensions of 2m x 2m (refer to Figure 23).</p>
<p>O5 To ensure boundary fences between sites provide visual privacy without affecting the amenity of those sites in terms of views and sunlight.</p>	<p>C9 The rear and side fences:</p> <ul style="list-style-type: none"> a) are located behind the building front setback; and b) do not exceed 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary. <p>C10 Where there is a difference in ground level in excess of 1.2m either side of the boundary—the height of fences and walls may increase to 1.2m from the level of the high side (refer to Figure 24).</p>
<p>O6 To ensure fences and walls are sympathetic to the topography.</p>	<p>C11 For sloping streets—the height of fences and walls may be averaged and fences and walls may be regularly stepped.</p>

B3.7 External areas ▶ 3.7.2 Fences	
Objectives	Controls
07 To protect and retain fences and walls that are important character elements for the precinct.	C12 Remnant sandstone and garden walls are retained and adequately maintained.
08 To ensure materials used in fences and walls are a high quality and in keeping with the existing streetscape character and character of the building.	C13 Existing retaining walls that are important character elements in the street or precinct are retained.
	C14 Existing fences, particularly those constructed from sandstone, that are significant or represent important character elements in the street or precinct are retained.
	C15 The design and materials of front fences and walls are compatible with those fences and walls that contribute positively to the streetscape, (and the heritage context in the case of heritage conservation areas), and satisfy the desired future character and precinct controls in Chapters B1 and B2 of this DCP.
	C16 Fences and walls made from corrugated iron, barbed wire, and the like are not permitted.

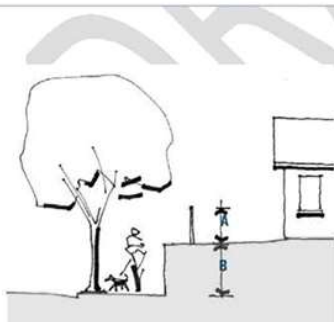


FIGURE 22
Front fences on the high side of streets
A - 1.2m maximum
B - Increase in ground level greater than 1.2m

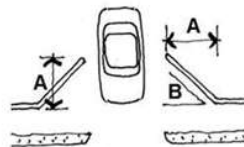


FIGURE 23
Splays for driveway entrances where fence height exceeds 1.2m
A = 2m minimum
B = 45° splay

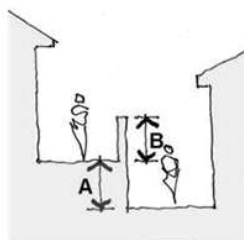


FIGURE 24
Side and rear boundary fences where levels change between properties
A = Increase in ground level greater than 1.2m
B = 1.2 maximum

B3.7.3 Site facilities

Some site facilities including mail boxes, clothes drying areas and laundry facilities are essential or common features in contemporary residential development. Others such as radio aerials and satellite dishes are less frequently required. The potential impacts of site facilities on the overall appearance of developments and the local streetscape need to be considered.

B3.7 External areas ▶ 3.7.3 Site facilities

Objectives	Controls
O1 To ensure that mail boxes are suitably located and designed.	C1 Lockable mail boxes are provided close to the street and are integrated with front fences or building entries.
O2 To provide adequate storage facilities in residential development.	C2 Lockable storage space of at least 8m ³ per dwelling is provided.

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B3.7 External areas ▶ 3.7.3 Site facilities

Objectives	Controls
<p>O3 To encourage the use of natural resources to dry clothes.</p> <p>O4 To ensure external clothes drying areas are suitably located.</p>	<p>C3 Development that includes a residential component provides opportunity for at least one external clothes drying area.</p> <p>C4 External clothes drying areas have access to sunlight, and are located in a secure place away from public spaces and screened from public view. Note: External drying areas may be located in the deep soil landscaped area.</p>
<p>O5 To ensure that aerials, antennae, and communications dishes must be thoughtfully integrated into development and are unobtrusive.</p>	<p>C5 Developments involving three or more dwellings share one common television antennae or satellite dish.</p> <p>C6 The design and location of aerials, antennae, and communications dishes:</p> <ul style="list-style-type: none"> a) do not have an unreasonable impact on the architectural character of the building to which it is attached; b) are not visually intrusive within the streetscape; and c) do not have an unreasonable impact on the amenity of adjoining and adjacent properties.

B3.7 External areas ▶ 3.7.3 Site facilities	
Objectives	Controls
06 To ensure that air-conditioning units, including external condensers, do not have adverse streetscape or amenity impacts.	<p>C7 Air-conditioning units are not be visible from the streetscape or public domain.</p> <p>C8 Air-conditioning units do not unreasonably impact on the visual or acoustic amenity of adjoining properties. The impact on neighbours is less than the impact on the occupants of the site where the air-conditioning unit is located.</p> <p>C9 Air conditioning units are suitably enclosed or screened to minimise noise impacts to adjoining properties. Note: Noise emissions from air-conditioning units must not exceed the background noise levels when measured at the boundary of the development site. The provisions of the <i>Protection of the Environment Operations Act 1997</i> apply.</p>
07 To protect the air quality and residential amenity.	C10 New fireplaces burn non-solid fuels, e.g. gas or electricity.
08 To ensure that development incorporates adequate garbage and recycling collection areas.	C11 Refer to Part E of the DCP, Chapter E5 Waste Management.

B3.7.4 Ancillary development – swimming pools, tennis courts and outbuildings

Swimming pools

A swimming pool is an impermeable structure capable of holding water to a depth greater than 300mm for swimming or other recreation purposes, but does not include a spa pool.

B3.7 External areas ▶ 3.7.4 Ancillary development - swimming pools

Objectives	Controls
O1 To provide for recreational opportunities for swimming without compromising the amenity of the adjoining properties.	C1 The swimming pool does not occupy the deep soil landscaped area.
O2 To limit excavation.	C2 Excavation beyond the controls in Section B3.4 is permitted to accommodate a backyard swimming pool, where the pool is outside the building envelope. Note: This concession does not apply to a swimming pool in a basement area.
	C3 The swimming pool (measured from the outer edge including pool coping) is at least 1.5m from property boundaries.
	C4 The swimming pool surrounds are no more than 1.2m above or below the existing ground level.
	C5 The swimming pool is no deeper than 2m from the pool surround level (refer to Figure 25).
	C6 The location and design of the swimming pool and associated works do not adversely impact on prescribed trees (refer to Chapter E3 Tree Management).

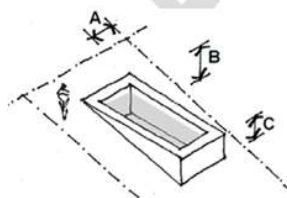


FIGURE 25
Provision of private swimming pools
A is a minimum of 1.5m
B – pool depth is a maximum of 2m
C is to be a maximum of 1.2m

Tennis courts

Tennis courts are rectangular recreational areas, approximately 24m x 11m, with a low net stretched across the centre. They are usually fenced to retain balls on the court during play.

B3.7 External areas ▶ 3.7.4 Ancillary development - tennis courts	
Objectives	Controls
O1 To provide recreational opportunities for playing tennis without compromising the amenity of adjoining and adjacent properties.	C1 The tennis court level is a maximum of 1.2m above or below the existing ground level (refer to Figure 26).
O2 To limit excavation.	C2 The tennis court is at least 1.5m from property boundaries (refer to Figure 26).
	C3 The court playing surface is made from a material that minimises light reflection.
	C4 The height and location of court fencing does not unreasonably compromise: <ul style="list-style-type: none"> a) sharing of views from surrounding properties; or b) solar access to adjoining properties.
	C5 Fencing material is a recessive colour.
	C6 Where floodlighting is proposed, the lighting does not unreasonably impact on the amenity of adjoining or adjacent properties.
	C7 The location of the tennis court and associated works does not adversely impact on prescribed trees (refer to Chapter E3 Tree Management).

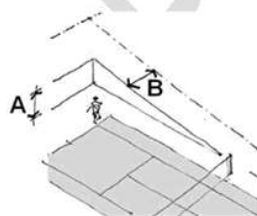


FIGURE 26
Provision of private tennis courts on residential sites
A is to be a maximum of 1.2m
B is to be a minimum of 1.5m

Outbuildings

Although development outside the building envelope is generally not permitted, small outbuildings such as a cabana, cubby house, fernery, garden shed, gazebo, greenhouse or the like, may be located within the rear the setback.

B3.7 External areas ▶ 3.7.4 Ancillary development - outbuildings	
Objectives	Controls
O1 To ensure that outbuildings do not unreasonably compromise the amenity of the occupants or the adjoining properties.	C1 The outbuilding is located within the building envelope or the rear setback. C2 Maximum height of the outbuilding is 3.6m.
O2 To ensure that the required deep soil landscaped area and level area of private open space are achieved.	C3 The outbuilding, if located outside the building envelope, does not reduce the deep soil landscaped area and the private open space areas below the minimum required for development, as specified in Section 3.7.1 Landscaped areas and private open space.

B3.8 Additional controls for development other than dwelling houses

This section includes additional controls for the following types of development:

- ▶ secondary dwellings;
- ▶ semi-detached dwellings;
- ▶ dual occupancies;
- ▶ attached dwellings;
- ▶ residential flat buildings and multi-dwelling housing;
- ▶ Inter-War flat buildings; and
- ▶ post-1950s residential towers.

These controls apply in addition to the controls in Sections B3.2-B3.7.

B3.8.1 Minimum lot width

The minimum lot width, as measured from the street frontage, is the minimum required to accommodate development on a site.

The controls below apply to detached dual occupancies, attached dwellings, residential flat buildings and multi dwelling housing, recognising that these forms of development require a minimum width to ensure that each dwelling in the development can be designed to provide reasonable amenity having regard to issues such as privacy, building separation and open space.

B3.8 Additional controls ▶ 3.8.1 Minimum lot width	
Objectives	Controls
O1 To ensure that sites have a minimum width to provide for the amenity of occupants and adjoining properties.	<p>C1 The parent lot has a minimum width at the street front alignment as follows:</p> <ul style="list-style-type: none"> a) detached dual occupancy—21m; b) attached dwellings—24m; c) residential flat building or multi dwelling housing containing three dwellings—15m; and d) residential flat building or multi dwelling housing containing four or more dwellings—21m. <p>Notes:</p> <ul style="list-style-type: none"> a) No minimum lot width applies to a dwelling house, semi-detached dwelling or attached dual occupancy. b) The parent lot refers to the development site before any subdivision (if relevant). c) These controls do not apply to battle-axe lots (refer to Section B3.9).

B3.8.2 Secondary dwellings

Under Woollahra LEP 2014, secondary dwelling means a self-contained dwelling that:

- a) is established in conjunction with another dwelling (the principal dwelling);
- b) is on the same lot of land as the principal dwelling; and
- c) is located within, or is attached to, or is separate from, the principal dwelling.

Clause 5.4 of Woollahra LEP 2014 sets the maximum size of a secondary dwelling, being 60m², or not more than 5% of the total floor area of the principal dwelling.

B3.8 Additional controls for development other than dwelling houses

3.8.2 Secondary dwellings

Objectives	Controls
O1 To ensure that amenity is provided to the occupants of the principal dwelling, secondary dwelling and to adjoining properties.	<p>C1 The secondary dwelling is located within the building envelope and is calculated in the footprint.</p> <p>Note: Only a secondary dwelling approved under the <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i> may be located outside the building envelope.</p> <p>C2 Both the principal and secondary dwellings have direct access to private open space.</p>

B3.8.3 Semi-detached dwellings

Under Woollahra LEP 2014, a semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling (refer to Figure 27).

This section includes controls relating to:

- ▶ new semi-detached dwelling development; and
- ▶ alterations and additions to existing semi-detached dwellings.

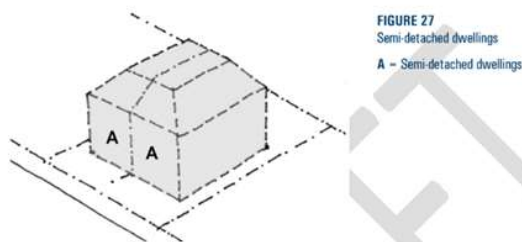


FIGURE 27
Semi-detached dwellings
A - Semi-detached dwellings

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.3 Semi-detached dwellings	
Objectives	Controls
For new development	
O1 To encourage semi-detached dwellings to present as a uniform built form.	C1 Both dwellings in the development have an integrated design and are complementary to each other in terms of style, design, materials, roof form and colour scheme.
For alterations and additions to existing semi-detached development	
O2 To ensure that a proposal to redevelop one semi-detached dwelling in a pair does not adversely affect the development potential of the unaltered dwelling.	C2 Alterations and additions to one semi-detached dwelling in a pair do not unreasonably prevent the redevelopment of the remaining semi-detached dwelling at a later date. C3 Windows facing the common elevation between each semi-detached dwelling are avoided.
O3 To ensure that the original streetscape	C4 First floor additions are set back beyond

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B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.3 Semi-detached dwellings	
Objectives	Controls
contribution and character of semi-detached dwellings is retained and enhanced.	<p>the apex or main ridge of the existing principal roof form.</p> <p>C5 Existing chimneys are retained.</p> <p>C6 Dormers are not located in the street elevation of the building.</p> <p>C7 The key architectural elements of the original building are retained.</p>
O4 To ensure that additions and alterations to one semi-detached dwelling respects the scale, detailing and characteristics of the pair.	<p>C8 Alterations and additions to one of a pair of semi-detached dwellings does not dominate or compromise the uniformity or geometry of the principal or street front elevation.</p> <p>Where symmetry is the dominant characteristic it should be respected; where asymmetry gives the appearance of a single building this should be respectfully acknowledged in the design to maintain that character.</p> <p>C9 The style, pitch, material, profile and colour of the proposed roof form matches, complements and extends the existing roof form of the building. Uncharacteristic roof forms and details that detract from the character of the adjoining semi-detached dwelling are avoided.</p> <p>C10 Roof design does not adversely impact on the adjoining semi-detached dwelling or create stormwater spillover.</p> <p>C11 External colour schemes and materials are sympathetic to the character of the original building and the other semi-detached dwelling.</p>

B3.8.4 Dual occupancy

A dual occupancy means two dwellings on one lot of land (refer to Figure 28).

Under Woollahra LEP 2014, dual occupancies are defined as:

- ▶ dual occupancy (attached) means two dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.
- ▶ dual occupancy (detached) means two detached dwellings on one lot of land, but does not include a secondary dwelling.

Clause 4.1A of Woollahra LEP 2014 sets the minimum lot size of dual occupancies.

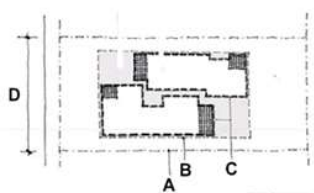


FIGURE 28
Example layout of detached dual occupancy within the building envelope
A – Lot boundary
B – Building envelope
C – Extent of building
D – 21m minimum frontage

B3.8 Additional controls for development other than dwelling houses

▶ 3.8.4 Dual occupancy

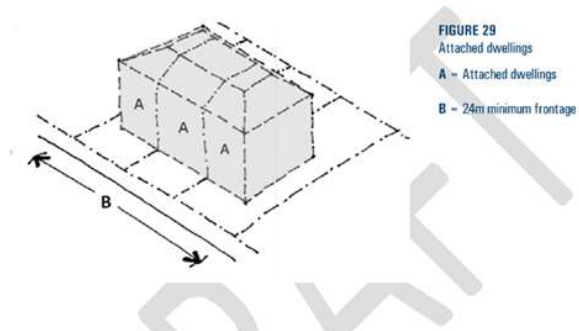
Objectives	Controls
O1 To ensure that the development presents as an integrated design.	C1 Both dwellings in the development complement each other in terms of style, design, materials, roof form and colour scheme.
O2 To ensure useable and well located areas of private open space.	C2 Private open space areas are not located within the front setback area.
	C3 Each dwelling has direct access to its own private open space area.
	C4 Private open space areas are not overlooked by the other dual occupancy dwelling in the development.
O3 To ensure that on-site parking does not detract from the streetscape character and amenity.	C5 Both dual occupancies share a common driveway cross-over. Separate cross overs may be considered on corner lots, where the access is from separate streets.
O4 To minimise loss of on-street parking.	

B3.8.5 Attached dwellings

Under Woollahra LEP 2014, attached dwelling means a building containing three or more dwellings, where:

- a) each dwelling is attached to another dwelling by a common wall;
- b) each of the dwellings is on its own lot of land; and
- c) none of the dwellings are located above any part of another dwelling.

Refer to Figure 29.



B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.5 Attached dwellings	
Objectives	Controls
O1 To ensure that the development presents as an integrated design.	C1 All dwellings in the development complement each other in terms of style, design, materials, roof form and colour scheme.
O2 To ensure that on-site parking does not detract from the streetscape character and amenity.	C2 If basement parking is not provided, at grade parking is located at the rear. Parking structures addressing the street are not encouraged.

B3.8.6 Residential flat buildings and multi dwelling housing

Woollahra LEP 2014 defines the following types of residential accommodation:

- ▶ **residential flat building** means a building containing three or more dwellings, but does not include an attached dwelling or multi dwelling housing.
- ▶ **multi dwelling housing** means three or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

In addition to the DCP controls, the NSW Government's *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development* (SEPP 65) is also a mandatory consideration for all applications for residential flat buildings and multi dwelling housing that is three or more storeys and contains four or more self-contained dwellings.

SEPP 65 contains principles for good design and provides guidance for evaluating the merit of design solutions, and is supported by the Residential Flat Design Code. The Code contains detailed information about how development proposals can achieve the design quality principles in the SEPP, addressing matters such as building separation and building configuration.

Where SEPP 65 applies, the development application must be accompanied by a design verification from a qualified designer, confirming that:

- ▶ he or she designed, or directed the design, of the development; and
- ▶ the design quality principles set out in SEPP 65 are achieved for the development.

B3.8 Additional controls for development other than dwelling houses

▶ **3.8.6 Residential flat buildings and multi dwelling housing**

Objectives	Controls
O1 To ensure that dwellings within the development provide good amenity.	C1 Internal layout and window placement achieves good natural ventilation. C2 Single aspect dwellings are limited in depth to 8m from a window. C3 The back of the kitchen is no more than 8m from a window. C4 The width of a cross-over or cross-through dwelling over 15m deep is 4m or greater. Deep and narrow dwelling layouts are avoided. C5 Where practical, habitable rooms excluding bedrooms are oriented to the north for maximum solar access. C6 Light wells as the main source of lighting and ventilation to dwellings is avoided.

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.6 Residential flat buildings and multi dwelling housing	
Objectives	Controls
O2 To ensure useable and well located areas of private open space that provide good amenity for residents.	C7 Each dwelling has direct access to its own private open space area. C8 Private open space areas are located and designed to minimise overlooking from other dwellings in the development. Note: For requirements for adaptable housing in residential flat buildings and mixed use developments refer to Part E8 of the DCP.

B3.8.7 Inter-War flat buildings

Inter-War flat buildings were constructed in many parts of the Woollahra LGA. Many of these buildings make an important historic, aesthetic, social and technical contribution to the character of areas and to the historical development of the area.

Inter-War flat buildings are defined as two storeys or more and containing two or more dwellings, constructed in the period circa 1918 to circa 1950.

This definition includes years outside the recognised 'Inter-War period' of 1918 to 1939. This is to recognise a building type and not exclusively buildings constructed between certain years. This building type is distinguishable by common characteristics and styles. There are many examples of residential flat buildings with these characteristics that were constructed after 1939.

There are numerous cohesive groups and one-off examples that demonstrate the key characteristics of architectural styles of the Inter-War period including Art Deco, Mediterranean, Georgian Revival, Spanish Mission, Skyscraper Gothic and Functionalist. Many of the Inter-War flat buildings across the LGA were designed by prominent architects such as Leslie Wilkinson, Emil Sodersten, Aaron Bolot, Eric Clarke Pitt, John R. Brogan and Samuel Lipson.

Externally, many buildings and their settings are substantially intact. Modern day renovation trends that include rendering or bagging face brick, altering window patterns and enclosing balconies have detrimental impacts on the character of these buildings, particularly their aesthetic values, and also on the general streetscape.

Streetscape

The streetscape is the connection between the private and public domain. The character of the Inter-War flat building streetscapes is their consistency in architectural style, scale, form, front and side setbacks, finishes and materials. In streets characterised by Inter-War residential building development, the subdivision pattern and regular separation of buildings often provides public views to surrounding areas and landmarks.

Landscaped area

The landscaped garden setting is an important element of Inter-War flat buildings and contributes to the character of the building and its setting. The garden setting usually comprises perimeter planting in narrow strips along the front of the buildings and along the side boundary fences framing a small lawn area in front of the buildings.

Building form

The predominant plan form of principal buildings is of a stepped nature with bays, indents, verandahs, balconies and other elements to break up the mass of the building and in particular the street front elevation.

Highly characteristic detailing defines each style within the Inter-War period and contributes to the building's character. Each style can be characterised by the following elements:

- ▶ Art Deco: Face brickwork, vertical and horizontal brick fins, decorative stepped parapets, symmetry, three dimensional massing, geometric curves.
- ▶ Mediterranean: Rendered and lime washed walls, round or Marseille tiles, accents of classical detail such as round arches, timber shutter, ornate fine ironwork railings.

- ▶ Georgian Revival: Symmetry, fine face brickwork, 12 pane windows, repetitive fenestration, semi-circular headed windows, classical columns and pediments.
- ▶ Spanish Mission: Plain rendered or textured stucco with concentrations of ornament, gabled roofs with curved parapets, half-round terra cotta tiles, triple arch windows, 'barley-sugar' columns.
- ▶ Skyscraper Gothic: Medieval motifs, tall tower elements, vertical fins, stepped parapets.
- ▶ Functionalist: Asymmetrical massing of simple geometric shapes, steel-framed windows, contrasting horizontal and vertical motifs, large areas of glass.

Building height

The height of Inter-War flat buildings is generally consistent within the streetscape. The buildings are usually 2 or 3 storeys, but may be up to 10 or 12 storeys.

Materials

Materials characteristic of Inter-War flat buildings are:

- ▶ walls—brick, render/stucco;
- ▶ windows—timber double hung or casement; and
- ▶ roofs—glazed terracotta tile.

Alterations, additions and repairs

Alterations and additions to Inter-War flat buildings should have regard to the existing character of the building and its setting.

Where external elevations and internal common areas are intact, applicants are encouraged to confine alterations to internal areas of individual apartments.

Services and fire upgrades must be carefully planned and detailed. To avoid damage to characteristic internal and external details, repairs to building elements are to retain existing detailing and be equal to the original quality and design of material finishes, fixtures and fittings.

Roofscapes and chimneys

The roof is an important characteristic of Inter-War flat buildings and is generally a hipped or gabled form with a tiled roof structure and decorative parapet features. It contributes strongly to the overall form, proportions and character of the building.

Chimneys are an important characteristic of pre-1950 residential flat buildings and add to the character of the overall building form and area. For example, chimneys may relate to a centralised incinerator system, reflecting a previous technology that is of historic interest.

Dormer windows to the existing roof forms are inappropriate and out of character with Inter-War flat buildings and are intrusive in the roof form. Skylights are intrusive in roof forms and are restricted to areas that are not visibly prominent.

Fences, gates and mailboxes

The front fences of Inter-War flat buildings are usually low scale and constructed of masonry, often incorporating or repeating details used in the building. Gates are generally wrought iron with fine craftsmanship in a design appropriate to the character of the building, and also match external balcony balustrades.

Mailboxes are often timber in a masonry enclosure and located at or near the front fence, or within or near the main entrance to the building.

Ancillary structures

Ancillary structures for Inter-War flat buildings are those buildings that are not the principal building and include, but are not limited to: carports, garages, garbage areas and laundries.

External materials, details and finishes

External materials, details and finishes and the way they in which these are used are important elements that contribute to the overall character of a building. Face brickwork is a key characteristic of Inter-War flat buildings. The use of masonry patterns including two-tone brickwork, squints (corner bricks), textured bricks and herringbone brickwork can contribute to aesthetic value to an Inter-War flat building.

Verandahs and balconies

Existing verandahs and balconies are an important characteristic of Inter-War flat buildings, in addition to being functional and adding visual interest to the exterior by creating shadows. The addition of new balconies can have a highly negative visual impact on the character of the building. Where external elevations are intact and the building displays distinctive characteristic detailing, verandah additions should be limited to building elevations that are not highly visible from the street.

Security devices

In some cases the original door and window hardware does not provide the necessary level of security for contemporary requirements. Additional security devices can be provided sympathetically whilst retaining original hardware and the character of the building.

Fire protection upgrading

To comply with BCA and other requirements, it is sometimes necessary to upgrade the building with additional fire protection equipment or measures. Where characteristic internal and external detailing exists, fire protection upgrading should be sympathetically incorporated to minimise adverse impacts to original fabric and characteristic features of the building, such as doors and fireplaces.

Objectives and controls for alterations and additions to Inter-War flat buildings

Note: The controls below apply in addition to the general residential controls in this chapter. Where there is an inconsistency, the controls below take precedence.

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.7 Inter-War flat buildings	
Objectives	Controls
Streetscape	
O1 To ensure that the significant characteristics of Inter-War flat buildings, in regard to their presentation to the street, are retained and protected.	C1 For Inter-War flat buildings that are heritage items or located in a HCA— No alterations or additions to the significant and/or original forms, details, fabrics, materials or finishes of the principal building elevations, except for restoration or reconstruction.
O2 To conserve the principal street elevations of the Inter-War flat buildings that contribute to the character of the area.	C2 For Inter-War flat buildings that contribute to the character of the area, are not heritage items or located in a HCA— Alterations or additions to the significant forms, details, materials or finishes of the principal building elevations are sympathetic to the style and period of the building, and do not dominate the building.
O3 To ensure that the architectural character of Inter-War flat buildings that contribute to the character of the area is not compromised.	C3 The articulated, stepped and faceted plan form of the building is not altered or obscured, particularly at the street elevation.
O4 To ensure that the character of original roofscapes, including key elements such as chimneys, is maintained.	C4 Alterations and additions are no higher than the existing roof level, and generally retain the original roof form of the building.
O5 To ensure that alterations and additions to the roofs are discrete and do not detract from the original character, proportions or key elements.	C5 The roof maintains traditional roofing materials of the area, such as glazed terracotta tiles. Any replacement or repair matches the original roofing in type, profile, colour and materials. Concrete roofing tiles and corrugated metal roofing are not appropriate.
	C6 Dormer windows or skylights are not visually prominent from the public domain

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.7 Inter-War flat buildings	
Objectives	Controls
	or the principal elevations of the building.
	C7 Skylights are flush with the roof surface.
	C8 Original chimneys and their details are retained.
06 To conserve the established garden settings, including significant elements and features.	C9 Characteristic front gardens, and their elements, are retained with minimal alteration.
	C10 Structures are not erected in the front garden that detract from the feeling of openness, or restrict or impact on the principal elevations of the building (including secondary fences and hedges).
	C11 Structures erected in the front garden do not significantly reduce or compromise the landscaped area or key elements and features.
07 To ensure that parking does not detract from the character of the streetscape.	C12 Car parking and garage structures are located at the rear, with access from the rear lane or side driveway.
08 To ensure that external alterations, additions and repairs do not detract from the original character and form of the building.	C13 External alterations and additions do not impact on the overall form and character of the building, and are not visually prominent from the public domain.
	C14 External windows and doors are repaired or replaced to match the style, materials and finishes of the original building.
	C15 Privacy screens are discreet and do not impact on the overall character of the building, and are visible from the street.
	C16 Shade structures, including awnings and canopies, are not located on the principal building elevations.
	C17 Alterations to improve accessibility (including lifts, ramps and stairs) are sympathetically integrated with the original building and retain the original character and design of the building and

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B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.7 Inter-War flat buildings	
Objectives	Controls
	landscape areas.
O9 To ensure that external materials, details and finishes respect and complement the original building.	<p>C18 Materials are similar in type and finish to those on the original building and sympathetically integrate with the fabric of the building.</p> <p>C19 Individual materials do not dominate the original materials of the building.</p> <p>C20 Original face brickwork is not painted, rendered or coated.</p> <p>C21 Windows are timber double hung or casement with the glazing pane size to be conserved and match the original windows.</p> <p>C22 Original leadlight, glass blocks, etched and patterned glazing are retained and conserved.</p>
O10 To ensure that works to balconies and verandahs do not detract from the character and form of Inter-War flat buildings.	<p>C23 Original verandahs and balconies to the principal elevation of the building are not enclosed, glazed, or otherwise altered, except to reinstate original detailing.</p> <p>C24 New verandahs and balconies: a) respect the character of the existing building; and b) are sympathetically integrated with the character and form of the building.</p>
O11 To ensure that fences, gates and mailboxes are consistent with the character of Inter-War flat buildings.	<p>C25 Original fencing, gates and mailboxes are retained and conserved.</p> <p>C26 Fences to the front building alignment are a height of between 400mm and 900mm. The height, style, form, materials and finishes match the principal building and the streetscape.</p> <p>C27 Gates are constructed in a height, style, form, materials and finishes to match the principal building and streetscape.</p>

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B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.7 Inter-War flat buildings	
Objectives	Controls
	Aluminium gates are avoided.
	C28 Fencing to side and rear boundaries is in the form of a timber paling fence.
	C29 Mailboxes are constructed in style, form, materials and finishes to match the principal building and streetscape.
	C30 Mailboxes are discreetly located and do not impact on the character of the building.
O12 To ensure that internal additions, alterations and repairs retain and respect internal common areas and significant internal character elements.	C31 Internal common areas and significant character elements are retained. This includes: entry doors, foyer areas and fittings, mailboxes, noticeboards, staircases, balustrades, carpets, wall details, light fittings, internal doors and the like.
O13 To ensure that the installation and maintenance of security devices does not detract from the character and form of Inter-War flat buildings.	C32 Original door and window hardware is retained, where practical. New additional security elements are in character with the building.
	C33 Security bars are: <ul style="list-style-type: none"> a) fitted internally; b) respect the existing glazing patterns; and c) painted in a dark recessive colour.
	C34 Security intercom systems are discreetly located and in a style and materials complimentary to the character of the building.
	C35 Alarm bell boxes and the like, are not attached to the principal building elevations.
O14 To ensure that additions and alterations for fire upgrading and safety are discrete, and retain and respect the original and	C36 New or upgraded services are discreetly and sensitively located to minimise visual

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B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.7 Inter-War flat buildings	
Objectives	Controls
significant building fabric.	<p>impact.</p> <p>C37 New or upgraded services, such as rising mains and wiring, are located within existing ducts, behind cornices or bulkheads or within external lightwells that are not visually prominent.</p> <p>C38 Wiring or other services are housed in concealed conduits.</p> <p>C39 Original timber staircases are retained and smoke isolated, if necessary.</p> <p>C40 Where the height of the original stair balustrades is modified for fire safety—the modification is discreet and sympathetically integrated with the existing stair balustrade.</p> <p>C41 Stair treads applied to existing stairs are discrete.</p> <p>C42 New lifts are designed and located so that the addition:</p> <ul style="list-style-type: none"> a) is located outside the principal building form, if practical; and b) does not require significant alterations to existing common areas. <p>C43 Existing original external and internal doors and door hardware are retained and upgraded rather than replaced.</p> <p>C44 Existing original fanlights and other openings are retained and sealed from behind, if necessary.</p> <p>C45 Emergency and exit lighting is incorporated into existing original light fittings, where practical.</p> <p>C46 Smoke and/or thermal detectors are discreetly located and do not impact on decorative plaster cornices and ceilings.</p>

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B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.7 Inter-War flat buildings	
Objectives	Controls
O15 To ensure that ancillary development does not detract from the style and character of Inter-War flat buildings and their settings.	<p>C47 Ancillary development, such as garages and laundries, constructed at the same time as the building are retained. Any modifications are sympathetic to the original building.</p> <p>C48 New ancillary development:</p> <ul style="list-style-type: none"> a) is smaller in scale than the principal building; b) is not located between the principal building and the street front, and generally located at the rear behind the principal building; c) is constructed in a style, form, materials and finishes that match the principal building; d) is single storey with a maximum clear internal height of 2.4m; and e) is sympathetic in scale and style to traditional forms of ancillary structures.
O16 To promote restoration and reconstruction works to restore significance.	C49 Unsympathetic additions and modifications to the building, and its grounds, are removed and replaced with sympathetic works, or reinstatement of original forms and matching fabric.

B3.8.8 Post-1950s residential towers

The post-1950s residential towers are generally between 10 and 25 storeys high, and set on large sites with significant setbacks providing a garden setting to the street. These towers generally occur on the ridges of Darling Point and Point Piper and are visually prominent, particularly from Sydney Harbour.

B3.8 Additional controls for development other than dwelling houses

▶ 3.8.8 Post-1950s residential towers

Objectives	Controls
O1 To ensure that additions and alterations do not have an unsympathetic impact on the architectural style of the original building.	C1 Alterations and additions to post-1950s residential towers have regard to: a) their visual prominence; b) impacts on views from public spaces; c) impacts on view sharing from private properties; d) the architectural integrity of the existing building; and e) the materials and finishes of the existing building.
O2 To ensure that additions and alterations do not detract from the character of the area or have an unreasonable impact on surrounding properties.	

B3.8.9 Non-residential development

A number of non-residential land uses, such as child care centres, community facilities, educational establishments and places of public worship are permitted within the residential zones.

Where a non-residential use is proposed, the development must be compatible with the desired future character of the area in terms of building scale, location and design, and the impacts arising from the use must not unreasonably compromise residential amenity.

Notes:

- ▶ On-site parking rates and design requirements are in Part E of the DCP, Chapter E1 Parking and Access.
- ▶ Additional controls are in Part F of the DCP, Chapters F1 Child Care Centres and Chapter F2 Educational Establishments.

B3.8 Additional controls for development other than dwelling houses

▶ **3.8.9 Non-residential development**

Objectives	Controls
<p>O1 <u>To ensure that non-residential development is consistent with the desired future character of the area and does not have an unreasonable impact on surrounding properties</u></p>	<p>C1 The built form complies with the building envelope, footprint, excavation and built form and context controls in Sections B3.2-B3.4.</p> <p><u>Note: The minimum side setback for non-residential development is determined by the table in Figure 6 and is measured at 90 degrees to the side boundary (refer Figure 4).</u></p> <p>C2 The development is compatible with the streetscape and the desired future character of the street. For example, buildings in residential areas must maintain a scale consistent with the streetscape.</p> <p>Note: Chapters B1 and B2 in this Part of the DCP define the desired future character for each precinct, and identify any special heritage, streetscape character and key elements within each precinct.</p> <p>C3 Lighting, noise, hours of operation, and intensity of the use do not unreasonably impact on the residential amenity of adjoining properties, the street, or</p>

Comment [DCP58]: Issue raised by staff - Overarching objective omitted in error.

Comment [DCP59]: Issue raised by staff - Insert clarification on calculating the side setback for non-residential development.

B3.8 Additional controls for development other than dwelling houses
▶ 3.8.9 Non-residential development

Objectives	Controls
	precinct.
	<p>C4 A management plan may be required to be submitted with the DA identifying the proposed uses on the site, and how the impacts of those uses will be managed and minimised. Matters that may need to be addressed in the management plan include:</p> <ul style="list-style-type: none"> a) pedestrian and vehicular access; b) parking and servicing; c) capacity; d) hours of operation; e) lighting; f) noise; and g) security and safety. <p>C5 <u>For any non-residential development (including attached and detached garaging) the maximum volume of excavation permitted is no greater than the volume shown in Figure 14.</u></p>

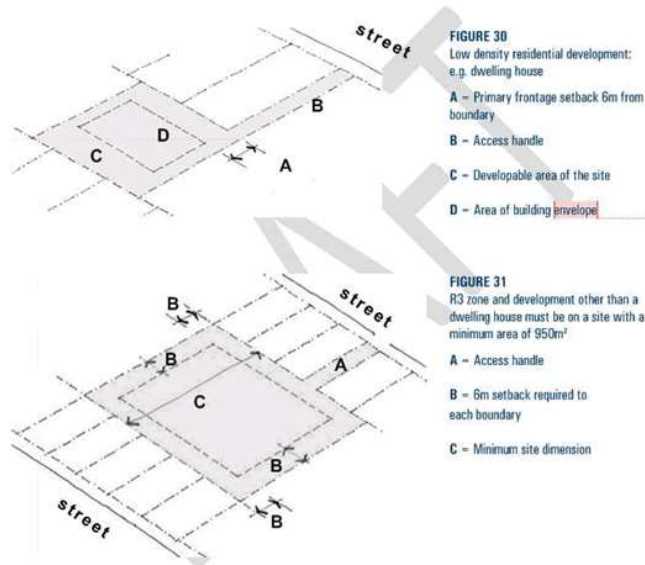
Comment [DCP60]: Issue raised by staff - Excavation control for non-residential development omitted in error.

B3.9 Additional controls for development on a battle-axe lot

A battle-axe lot is a lot that is connected to a road by an access handle. It does not have a street frontage, and directly adjoins other properties at all boundaries.

The controls below recognise that development on battle-axe lots needs to particularly consider the amenity of both the occupants and the adjoining properties, having regard to privacy, solar access, open space and the like.

Note, under Woollahra LEP 2014 the maximum height for development on a battle-axe lot is 9.5m.



Comment [DCP61]: Administration amendment - Amend diagram by referring to the "envelope" and delete the term "buildable area" consistent with the footprint control.

B3.9 Additional controls for development on a battle-axe lot	
Objectives	Controls
O1 To ensure that the battle-axe lot is of a size that can provide for the amenity of occupants and adjoining properties.	C1 For development other than a dwelling house in the R3 Medium Density Residential Zone—the minimum lot size is 950m ² .
	<p>C2 The lot, excluding the access handle, has minimum dimension in any direction, as follows:</p> <p>a) for a detached dual occupancy—21m</p> <p>b) for development involving three or more dwellings—24m.</p> <p>Note: The access handle of a battle-axe lot is not included in calculating the minimum lot size, or minimum lot dimension.</p>
O2 To ensure adequate building separation to provide for the amenity of occupants and adjoining properties.	<p>C3 For development in the R2 Low Density Residential Zone—a 6m setback applies to the primary frontage (refer to Figure 30).</p> <p>Note:</p> <p>a) the primary frontage is the boundary closest to the access handle leading to the street; and</p> <p>b) side and rear setbacks in Sections 3.2.3 and 3.2.4 apply.</p>
	<p>C4 For development in the R3 Medium Density Residential Zone, a 6m setback applies to all boundaries (refer to Figure 31).</p> <p>A reduced setback may be considered where there is no unreasonable impact on the amenity of adjoining properties having regard to privacy, solar access, sense of enclosure and view sharing.</p> <p>Note: A 7.2m wall height applies (refer to Sections 3.2.5).</p>
	<p>C5 Notwithstanding C3, a setback of 12m applies to:</p> <p>a) land at 327, 327C, 327D, 337, and 337A, Edgecliff Road (being Lot 4 DP 320118, Lot 1 DP 566991, Lot X DP</p>

Comment [DCP62]: Administrative amendment - amend the calculation of lot size, consistent with the LEP Standard Instrument definition.

B3.9 Additional controls for development on a battle-axe lot	
Objectives	Controls
	<p>101456, Lot C DP 323192, and Lot 12 DP 851270,) and 14, 20, and 22 Roslyndale Avenue (being Lot 101 DP 738428, Lot 6 DP 9477 and Lot 7 DP 9477) along the eastern most boundary that directly adjoins R2 zoned land; and</p> <p>b) land at 345 Edgecliff Road (Lot E DP 331031) along the southern most boundary that directly adjoins R2 zoned land.</p> <p>Note: The 6m setback applies to all other boundaries.</p>
<p>O3 To ensure that development does not unreasonably affect adjoining properties in terms of privacy and sense of enclosure.</p>	<p>C6 Primary living areas, such as a living room, lounge room, kitchen and dining room, are located on the ground floor. Habitable rooms other than bedrooms, on the upper floors will only be considered where there is:</p> <p>a) no unreasonable impact on the privacy of adjoining properties; and</p> <p>b) no overlooking into the private open space areas of adjoining properties.</p> <p>C7 In the R2 zone, where habitable rooms other than bedrooms are located on the upper floor, the windows to these rooms are setback at least 4.5m from any boundary.</p> <p>C8 Balconies, decks and the like, on the upper floors will only be considered where there is:</p> <p>a) no unreasonable impact on the privacy of adjoining properties; and</p> <p>b) no overlooking into the private open space areas of adjoining properties.</p>

B3.10 Additional controls for development in sensitive locations

B3.10.1 Development on land adjoining public open space

This section applies to land that directly adjoins land zoned RE1 Public Recreation, E1 National Parks and Nature Reserves, and E2 Environmental Conservation.

Parks, reserves and other public open space areas contribute significantly to the amenity and well-being of the community.

Many of these areas are close to the harbour foreshore and provide an important contribution to scenic quality. Some of these parks and reserves contain remnant vegetation and ecological communities worthy of protection.

Development, including landscaping, on private property adjoining public open space areas needs to consider its relationship to the public land and be sensitively managed to minimise potential impacts on the amenity of these public open space areas.

B3.10 Additional controls for development in sensitive locations

3.10.1 Development on land adjoining public open space

Objectives	Controls
O1 To ensure that development on land adjoining public open space areas does not compromise the public use or amenity of the land.	<p>C1 Development does not conflict with any plan of management applying to public land.</p> <p>C2 Development does not have an unreasonable impact on the public open space area in terms of:</p> <ul style="list-style-type: none"> a) overshadowing; b) scale or sense of enclosure; and c) loss of significant views. <p>C3 Fencing and landscaping along any common boundary makes a positive contribution to the public open space area.</p>
O2 To improve opportunities for passive surveillance into public open space areas.	C4 Where practical, the building is designed to have an outlook to the adjoining public open space area.

B3.10 Additional controls for development in sensitive locations	
▶ 3.10.1 Development on land adjoining public open space	
Objectives	Controls
O3 To protect and enhance public access to public open spaces.	C5 Development does not reduce existing public access to public open space areas. When possible, development increases opportunities for public access.
O4 To ensure that development does not have an adverse impact on the ecology of adjoining parks, reserves or other public open space areas.	C6 A gate or the like, providing direct access from a private property to the public park or reserve opens inward toward the private property and does not encroach on public land.
O5 To ensure that development adjoining open space provides for a continuation and support of native vegetation and habitat areas.	C7 For new plantings, 90% of the plants in the landscape design are native species. However, where the land adjoins bushland to which <i>State Environmental Planning Policy No 19 – Bushland in Urban Areas</i> applies, 100% of the plants are locally occurring native species.
O6 To ensure that development does not impact on the environmental processes of the public land, such as soil erosion, siltation, and the like.	C8 Landscaping provides a diversity of native species and a complexity of habitat through vertical layering. Note: Refer to the DA Guide for suggested vegetation species.

B3.10.2 Harbour foreshore development

Sydney Harbour is an outstanding natural and public asset of national significance with unique environmental qualities that are world renowned. Woollahra Council has a shared responsibility with the State government and other councils with harbour foreshore land to ensure its protection for existing and future generations.

In 2005 the State Government introduced the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (Harbour REP) to provide clear planning framework and better environmental outcomes for Sydney Harbour. The Harbour REP applies not only to the waterways and foreshores of the harbour, but to the wider hydrological catchment.

The provisions in this part of the DCP supplement the Harbour SREP, and particularly address scenic and environmental protection issues. These DCP provisions apply to:

- ▶ land that has a boundary to the Sydney Harbour foreshore;
- ▶ land adjoining the Sydney Harbour foreshore which is zoned E1 National Parks and Nature Reserves or RE1 Public Recreation; and
- ▶ any land visible from Sydney Harbour.

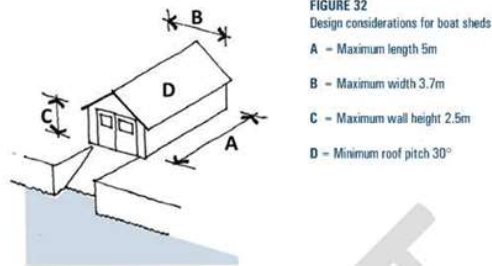
Scenic protection

The appearance of development when viewed from Sydney Harbour is an important consideration for development.

Scenic protection is not just relevant to land immediately adjacent to the foreshore, but applies to development on any land that is visible from Sydney Harbour. This is because building form, scale, materials and vegetation cover of development located along the slopes and ridgelines visible from the harbour are also important in contributing to, and protecting, the harbour's scenic qualities.

Ecological communities and protection of the natural foreshore

The harbour foreshore supports a vast array of flora and fauna communities. It is important to minimise the impact of development to preserve natural ecosystems and protect the natural foreshore character.



B3.10 Additional controls for development in sensitive locations
 3.10.2 Harbour foreshore development

Objectives	Controls
O1 To protect the scenic quality of the natural landscape and built environment, particularly as viewed from Sydney Harbour.	C1 Development as viewed from Sydney Harbour follows the natural topography and maintains or enhances vegetation cover.
	C2 Roofs are below the tree canopy and maintain the prominence of the treed skyline.
	C3 Development as viewed from Sydney Harbour, is designed and constructed to blend with the natural landscape setting and the existing built environment through the use of materials, colours, wall articulation, building form and landscaping. Glass elevations and excessive use of windows resulting in reflectivity and glare are avoided.
	C4 Pergolas, boatsheds, other outbuildings and structures are designed and constructed to complement the overall appearance of the development. Such structures are no more than one storey in height.
	C5 Swimming pools and spa pools are not elevated more than 1.2m above ground level and complement the character of the harbour and foreshore.
	C6 Swimming pool and spa pool walls are suitably

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B3.10 Additional controls for development in sensitive locations
▶ 3.10.2 Harbour foreshore development

Objectives	Controls
	treated to complement the natural foreshore, and where visible, are sandstone clad and incorporate suitable screen landscaping.
	C7 The boatshed is designed to directly relate to the water, with openings and access facing the water.
	C8 Boatsheds are used solely for the storage and/or maintenance of boats.
	C9 Boatsheds have maximum plan dimension of 6m x 3.7m. Boatsheds are sited so that the minimum dimension fronts the harbour (refer to Figure 32).
	C10 Boatsheds incorporate gable pitched roofs with a minimum pitch of 30°. The use of roofs as sundecks, patios or the like is not permitted (refer to Figure 32).
	C11 Boatsheds are single storey and have a maximum wall height of 2.5m (refer to Figure 32).
	C12 Boatsheds are constructed of stone or timber. Excessive use of glazing is avoided.
	C13 Jetties are constructed of hardwood, are of minimum size and are designed to be as unobtrusive as possible. The sharing of jetties between properties is encouraged and, where possible, jetties are constructed on common boundaries to limit the proliferation of structures along the foreshore.

B3.10 Additional controls for development in sensitive locations	
3.10.2 Harbour foreshore development	
Objectives	Controls
<p>O2 To minimise impacts on natural coastal processes, including sea level rises and flooding.</p>	<p>C14 Boundary fences are not permitted within 8m of the mean high water mark.</p> <p>C15 Within the foreshore area:</p> <ul style="list-style-type: none"> a) fences are not more than 1.5m in height above the existing ground level, and are constructed of open weave materials (such as wire or lattice to enable vines, creepers or hedges) to provide natural cover; b) boundary planting is not higher than 1.5m when fully mature; and c) hard surfaces and artificial surfaces, such as paving, are minimised and generally limited to swimming pool surrounds or modest walkways between the residential building and foreshore structures, such as swimming pools or boat ramps. <p>Note: Foreshore area means the land in foreshore area 12 and 30 in Woollahra LEP 2014.</p>
<p>O3 To protect natural habitats and minimise disturbance on ecological communities.</p>	<p>C16 Development on foreshore properties maintains or reduces current levels of site stormwater or sediment run-off entering the harbour.</p> <p>C17 Development is not located within seagrass communities and avoids shading of seagrass communities.</p> <p>C18 Development and construction does not disturb seabed contaminants.</p> <p>C19 The existing tree canopy is maintained or enhanced.</p>

B3.10 Additional controls for development in sensitive locations
 ▶ 3.10.2 Harbour foreshore development

Objectives	Controls
O4 To reinforce the natural character of the foreshore and limit disturbance to the natural land and water interface.	<p>C20 Development on foreshore properties does not significantly alter the topography and preserves natural foreshore features including cliffs, rock outcrops, rock shelves and beaches.</p> <p>C21 Seawalls or retaining walls are not permitted in areas where the foreshore is in its natural state.</p> <p>C22 Where seawalls or retaining walls are permitted, these are:</p> <ul style="list-style-type: none"> a) constructed of coarse, rock-faced stone or with stone facing (preferably sandstone); b) no more than 1m above the mean high water mark; and c) be designed and built to improve the environmental value of seawalls and seawall-lined foreshores (refer to Environmentally Friendly Seawalls: A Guide to Improving the Environmental Value of Seawalls and Seawall-lined Foreshores in Estuaries, published by the Department of Environment and Climate Change NSW on behalf of Sydney Metropolitan Catchment Management Authority). <p>C23 Slipways and stairs are designed and constructed to closely conform to the character of the natural foreshore.</p>

Annexure 9

ALTERNATIVE SECTION B3.4 - NON-VOLUMETRIC EXCAVATION
CONTROLS FOR THE URBAN PLANNING COMMITTEE MEETING OF
31 OCTOBER 2016

Insertions - identified in blue and underlined

~~Deletions—identified in red and scored through~~

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B3.4 Excavation

Excavation is an accepted part of development in the Woollahra Municipality where the topography varies. Excavation allows buildings on the sloping sites to be designed to step down and sit into the hillside, and it also enables cars and storage to be accommodated on site in an unobtrusive manner.

However, there are significant environmental impacts associated with extensive excavation, as well as external impacts, such as amenity impacts to adjoining properties during the excavation process.

Council has determined that the volume excavated from a given site should be limited to an amount that would limit adverse amenity impacts, that which might reasonably be required for car parking and domestic storage requirements, and to allow the building to respond to the site topography in an appropriate manner.

B3.4 Excavation	
Objectives	Controls
O1 To allow buildings to be designed and sited to relate to the topography with minimal cut and fill.	C1 Buildings must be designed to relate to the topography of the site and the desired future character of the precinct.
O2 To minimise excessive excavation so that it will not adversely impact the amenity or the environmental quality of adjoining land or the public domain.	C2 Buildings must be designed to minimize cut and fill, so as to relate to the existing topography. C3 Excavation must not be carried out to provide more car parking than the maximum number of parking spaces permitted by Part E1 of this DCP.
O3 To limit damage to Council infrastructure, such as roads, from truck movements.	Note: Refer to section E1.4.2 where provisions for additional parking and excavation are addressed.
O4 To restrict energy expenditure associated with excavation and traffic emissions from truck movements.	
O5 To ensure the cumulative impacts of excavation do not adversely impact land stabilisation, ground water flows and vegetation.	E4 Excavation must not result in any significant adverse amenity impacts, or environmental impacts to adjoining land or the public domain. E1 For a dwelling house, dual occupancy or semi-detached dwelling (including attached and detached garaging) the maximum volume of excavation permitted is no greater than the volume shown in Figure 14. C2 For a residential flat building, multi dwelling housing, or attached dwelling development (including attached and detached garaging) the maximum volume of excavation permitted is no greater than

Comment [DCP1]: Issue raised by practitioners - Delete part of this objective. Cut and fill is generally a reasonable and necessary part of building on a sloping site.

Excavation and the removal of excessive amounts of material from the site is the concern.

Comment [DCP2]: Issue raised by staff - Delete the word "excessive". It is not required and compromises the objective.

Comment [DCP3]: Non-volumetric controls inserted.

Comment [DCP4]: Volumetric controls deleted.

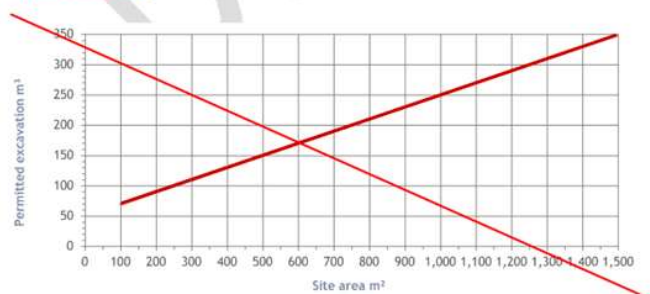
B3.4 Excavation	
Objectives	Controls
	<p>the volume shown in Figure 15.</p> <p>C3 For any other use (including attached and detached garaging) not addressed in C1 and C2 above the maximum volume of excavation permitted is no greater than the volume shown in Figure 15.</p> <p>C4 A variation to the volume shown in Figures 14 and 15 will be considered, however the maximum volume of excavation permitted will only be the amount needed to accommodate:</p> <p>a) car parking to comply with the maximum rates in Part E1 of this DCP and any reasonable access thereto, if the maximum car parking rates are required by the Council; and</p> <p>b) storage at a rate of 20m³ (cubic metres) per dwelling if for a dwelling house, dual occupancy, semi-detached dwelling or attached housing; or</p> <p>c) storage at a rate of 8m³ (cubic metres) per dwelling if for a residential flat building or multi dwelling housing development.</p> <p>C5 The volume controls in C1 and C2 above do not apply to backyard swimming pools and tennis courts located outside the building envelope. (Note: Separate controls apply which limit excavation, refer to Section 3.7.4 Ancillary development – swimming pools, tennis courts and outbuildings).</p>
O406 To minimise structural risks to adjoining structures.	C6 Sub-surface <u>Basement</u> walls are no closer to the boundary than permitted by the setback controls (refer to Figure 15).
O507 To minimise noise, vibration, dust and other amenity impacts to adjoining and adjacent properties.	C7 Notwithstanding C6, <u>basement walls for residential flat buildings, multi dwellings housing and attached dwellings are no closer to the boundary than 1.5m (see Figure 16).</u>
	C8 Excavation in relation to an existing

Comment [DCP5]: Issue raised by staff - Term "sub-surface" replace with "basement" in all instances, for consistency with LEP Standard Instrument definition.

Comment [DCP6]: Issue raised by staff - Basement walls can be 1.5m from the boundary for medium density dwelling types to facilitate subterranean car parking.

B3.4 Excavation	
Objectives	Controls
	<p>attached dwelling, semi-detached dwelling, or attached dual occupancy is not to occur under:</p> <ul style="list-style-type: none"> a) common party walls; b) footings to common party wall; c) freestanding boundary walls; d) footings to freestanding boundary walls. <p>C9 Excavation below 2m and/or within 1.5m of the boundary is accompanied by a geotechnical and hydrogeological report and a structural report demonstrating that the works will not have any adverse effect on neighbouring structures.</p> <p>Note: Council may identify other circumstances where these reports are required. All reports must be prepared in accordance with Council's guidelines. Council may also require the preparation and submission of a pre-commencement dilapidation report for properties neighbouring the development.</p>

FIGURE 13
Maximum volume of excavation for the site of:
- a dwelling house
- dual occupancy development
- a semi-detached dwelling



Comment [DCP7]: Volumetric control sliding scales deleted.

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FIGURE 14
Maximum volume of excavation for the site of:
- a residential flat building
- multi-dwelling housing
- attached dwellings
- any other land use not addressed in controls C1 to C2 of Section B3.4 Excavation

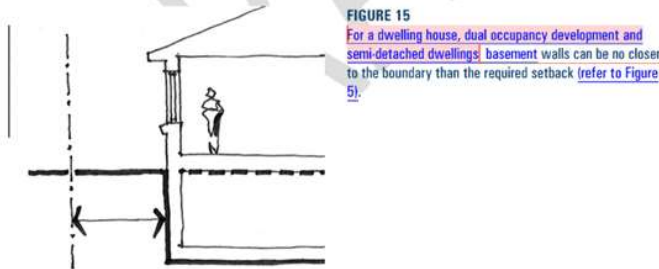
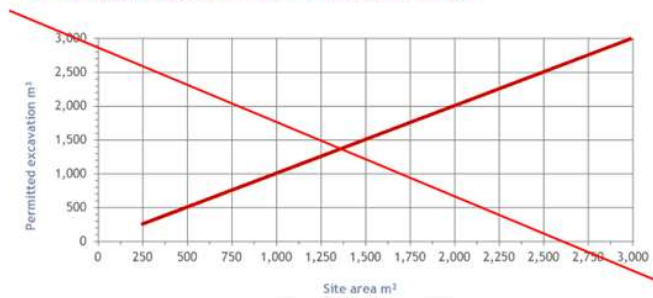


FIGURE 15
For a dwelling house, dual occupancy development and semi-detached dwellings, basement walls can be no closer to the boundary than the required setback (refer to Figure 5).

Comment [DCP8]: Issue raised by staff - Basement excavation separation from the side boundary for dwelling house, dual occupancy development and semi-detached dwellings have been distinguished from those for residential flat buildings, multi dwelling housing and attached dwellings.

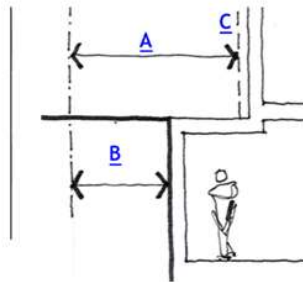


FIGURE 16
For a residential flat building, multi dwelling housing, attached dwellings and any other land use not addressed in controls C1 to C2 of Section B3.4 Excavation, basement walls can be no closer to the boundary than 1.5m.

- A- Refer Figure 6
- B- Minimum setback 1.5m
- C- Building envelope

Comment [DCP9]: Issue raised by staff - For residential flat buildings, multi dwelling housing and attached dwellings the site can be excavated to 1.5m from the side boundary. Diagram inserted to demonstrate this. This facilitates basement car parking.

Annexure 5

PROPOSED AMENDMENTS
TO CHAPTER B3
WOOLLAHRA
DEVELOPMENT CONTROL PLAN 2015

SUBMISSION PREPARED BY
EASTERN DESIGN & PLANNING
PROFESSIONAL'S ALLIANCE
(EDPPA)

10th OCTOBER 2016

EDPPA
EASTERN DESIGN & PLANNING PROFESSIONAL'S ALLIANCE
C/O HOWE ARCHITECTS P.O.BOX 622 DOUBLE BAY NSW 1360

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1. INTRODUCTION

On 27th April 2015 Woollahra Council resolved at Part A " *That the Woollahra Development Control Plan 2015 (version dated 13 April 2015) be adopted by Council, subject to ... (a number of amendments)*"

Following concerns raised by councillors, design and planning professionals practicing in the Municipality together with other submissions received during the exhibition period and at the preceding Strategic and Corporate Meeting, the resolution of Council included both a Part B and PART C as follows;

B. That Council establish a working party to review Chapter B3 General Development Controls, in particular controls relating to building bulk, scale, envelope, floorplates, setbacks and site excavation, and any other DCP controls that the working party believe are necessary to review and amend to enable a high level of architectural quality, built form and environmental amenity to be achieved within the municipality; and

(i) The Working Party include representatives from design and planning organisations practicing in the municipality as appointed by the Mayor;

(ii) Council staff regularly report on the progress and any recommendations from the Working Party to the Urban Planning Committee.

(iii) The review and recommendations of the Working Party be reported to the Urban Planning Committee within four (4) months from the date that the Development Control Plan comes into effect.

C. That the working party referred to in B above also consider and review the minimum lot widths for:

- *Detached dual occupancies;*
- *Attached dwellings and*
- *Residential flat buildings or multi dwelling housing containing four or more dwellings, in conjunction with the relevant minimum lot size controls in the Woollahra Local Environmental Plan 2014.*

The first meeting of Council's DCP Working Party commenced on 15th September 2015, and representative on the Working Party representing design and planning organisations practicing in the municipality as appointed by the Mayor included Alec Tzannes, Bruce Stafford, Chris Howe and George Karavanas.

Prior to the formation of Council's DCP Working Party, design and planning professionals practicing in the municipality formed the Eastern Design & Planning Professional's Alliance (EDPPA), an informal alliance of architects, building designers, town planners and other professionals involved in building design or town planning practicing in the eastern suburbs.

The objectives and purpose of the EDPPA is to represent and provide submissions on behalf of design and planning professionals practicing in the eastern suburbs to both local authorities and the state government on matters relating to statutory planning instruments, planning policies, or other planning instruments or policies which may potentially affect the building environment or public domain within the eastern suburbs of Sydney.

The EDPPA now consists of over 140 professionals, including representatives from a large number of the most well known and respected design and planning organisations practicing in the Woollahra Municipality.

This submission has been jointly prepared by those practitioners on the Woollahra DCP Working Party and includes previous submissions made by practitioners to the Working Party during the DCP Review Process.

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2. EXECUTIVE SUMMARY

2.1 Chapter B3 Objectives

Practitioners are in support of the need to include a set of over-arching objectives at the commencement of Chapter B3 which confirm Woollahra Council's commitment to design excellence and how design excellence will be assessed pursuant to this DCP.

Practitioners have provided at Annexure 1 suggested amendments to *Section B3.1.3 DCP Objectives*.

2.2 Building Setbacks

Practitioners are in support of Sections B3.2, B3.2.3 and B3.2.3, front, side and rear setbacks with a minor amendment to the side setback controls.

2.3. Wall Height & Inclined Plane

Practitioners are in general support of the objectives of the wall height and inclined plane which determines the building envelope.

However, practitioners believe that due to the controls being based upon a flat site without adjustment for sloping sites which occur frequently throughout the Municipality, the controls in their present form will be difficult to interpret or achieve on sloping sites.

Practitioners therefore believe that the controls need to be amended to allow for sloping sites before any amendments to the DCP are publicly notified.

Practitioners also note that the setback and wall height controls as expressed are unworkable in a number of situations commonly found in the Municipality including battle axe subdivisions and sites with existing conditions where variance to the setback controls on an assessment of site specific issues is in the public interest.

Accordingly, a further recommendation is for the DCP to acknowledge these situations and confirm that where an improved environmental outcome can be demonstrated to the satisfaction of Council variations to the numerical controls will be considered by Council on merit.

2.4 Building Envelope and Footprint

Practitioners are in general support of the proposal to amend the current Floor Plate objectives and controls to a set of Building Footprint objectives and controls to determine the building location and size.

However, practitioners believe that the proposed objectives;

- do not adequately address the importance of deep soil landscaping,
- that the definition of building footprint is unreasonably restrictive and will result in unintentional, unreasonably restrictive, and undesirable amenity and environmental impacts.

Practitioners have provided detailed comments and proposed amendments in this submission which are consistent with their previous submissions to the DCP Working Party.

It is the opinion of practitioners that the proposed amendments to *Section B3.2.5 Wall height and inclined plane* in their current form will result in similar ambiguities, conflicts, contentions and challenges as occurred with the Floorplate Controls.

Practitioners therefore believe that amendments to Section B3.2.5 need to be incorporated into the proposed DCP amendments before these are issued for public comment.

2.5 Excavation

Practitioners have been, and continue to be strongly opposed to many of the objectives relating to excavation, together with the numerical controls of Section B3.4 Excavation which limit the volume of excavation on a sliding scale.

For the reasons previously provided to the DCP Working Party, including the many case studies provided, together with the detailed comments provided in this submission, practitioners have demonstrated that;

- limiting excavation to address short term environmental impacts often results in the inability to provide higher levels of amenity, reduced environmental impact, and benefits to both the private and public domain is the longer term;
- there is no scientific or environmental basis which demonstrates that limiting excavation volumes either benefits the environment or the public in the long term, nor any evidence which demonstrates that increased excavation volumes correlates in increased risk from excavation;
- mitigation of the risks associated with excavation can be adequately and safely address by detailed geotechnical and structural controls, as demonstrated by most Councils in Sydney;
- excavation, when considered in the context of a particular development, can provide significant environmental benefits, including reduction of impacts from building bulk or scale, increasing view opportunities or solar access, allowing on-site parking, and increasing amenities for both private interests and the general public;
- excavation should executed in a manner which does not detrimentally impact upon either significant trees, significant landscaping, significant topography, or the desired future character of the streetscape, nor limit the ability to provide deep soil landscaping

Practitioners therefore submit that the "test" of whether excavation is reasonable and permissible should be assessed against those matters identified in specific proposals as supported by documentation by each applicant.

Restricting excavation based upon a sliding scale which has little consideration for context, merit or longer term environmental benefits is flawed, as has been demonstrated in Council's inability to defend the current controls when these has been challenged.

Practitioners submit that the draft Excavation Objectives and Controls provided at Annexure 2 of this submission will mitigate and control excavation risk and impacts without compromising the ability for increasing private and public amenity, or unnecessarily and unreasonably restricting excavation volumes.

2.6 On-site Parking

Practitioners submit that there should be no restrictions on the number of on-site parking spaces provided on a particular site where the requirements of deep soil landscaping, future desired streetscape character, view and solar access, and building footprint can be achieved.

As confirmed by many residents canvassed by practitioners, residents of Woollahra are not in support of restricting on-site parking, nor are they in support of restricting excavation to allow on-site parking where the excavation does not result in an adversely impact in the long term.

Allowing on-site parking where the visual and physical impacts of car-parking on a particular site can be appropriately addressed, provides significant amenity and environmental benefits to residents and the public alike, in particular the ability to reduce private parking on suburban streets, and to retain and where circumstances allow, increasing trees and landscaping within the public domain.

Woollahra is not well serviced by public transport, has a growing vehicle ownership per household, and an increasing population.

Therefore, limiting on-site parking and excavation necessary to achieve this will only increase the propensity for cluttering our suburban streets with parked cars, with the resulting loss of streetscape quality and amenity which has occurred gradually over the last 10 years and more.

3. SECTION B3.1.3 DCP OBJECTIVES

Practitioners have consistently submitted during the DCP Review Process that the Woollahra DCP should contain a set of objectives which clearly define the overriding aims and objectives of this planning policy, by which specific objectives and prescriptive controls of each chapters of the DCP can be assessed, and which identifies the need to encourage and attain design excellence.

We are therefore encouraged that Council planning staff support our view that design excellence is a key element in achieving a high level of design quality and amenity in both the private and public domain, and that design excellence can be assessed at both a quantitative and qualitative level.

- 3.1 However while we support the inclusion of *Section B3.1.3 Objectives*, we believe the proposed objectives and specific text of this clause as contained in the draft amendments to *Chapter B3 General Development Controls* dated 18th April 2016 need further consideration and refinement.

We are informed by Council planning staff that they too believe that the suggested wording of *Section B3.1.3 Objectives* needs further refinement.

- 3.2 Therefore we include at Annexure 1 our suggested amendments to this clause (attached).

Our suggested amendments include the ability to meet the objectives of the future desired character of the area, conserve heritage, trees and significant landscaping, minimise adverse impact on landscape, topography, and neighbouring properties, and providing a high level of occupant amenity without unnecessarily limiting opportunities to encourage contemporary design, design excellence and innovation.

Consequently, we strongly promote our suggested amendments to Council.

4. SECTION B3.2 FRONT SETBACK

Practitioners agree with and support the proposed amendments to *Section B3.2 Front Setback* which are similar to the previous DCP but provide a level of design flexibility where the setback of neighbouring buildings from the front boundary are not consistent.

It is the opinion of practitioners that the environmental impacts of the proposed amendments are similar to the previous DCP and will not result in increased impact to neighbouring properties or the public domain.

5. SECTION B3.2.3 SIDE SETBACKS

Practitioners generally agree with and support the proposed amendments to *Section B3.2.3 Side Setback* subject to the qualifications provided at paragraph 2.3.

- 5.1 However, practitioners believe that the amended controls in their current format do not allow any degree of flexibility where a better environmental outcome may result if one side setback was reduced and another increased.

It is not unusual for this circumstance to occur in the Municipality, i.e

- where one side boundary is adjacent to a road, lane or public space, and the other close to a neighbour dwelling,

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- where an existing neighbouring dwelling to the south is close to the boundary, but the one to the north some distance away, resulting even in the case of compliant setbacks, unnecessary overshadowing impact to the southerly neighbour,
- where increased amenity, including solar access or views, can be provided to one neighbour by increasing one setback and decreasing the other without compromising the amenity of the opposite neighbour.

5.2 Therefore, it is the opinion of practitioners that *Section B3.2.3 Side Setbacks* should contain an additional control as follows;

C6 Notwithstanding C1 to C3 above, in circumstances where Council is satisfied that an improved environmental outcome will result, at the discretion of Council, one side setback may be decreased, and the other increased accordingly.

This modification will allow greater flexibility in design to achieve improved amenity for development while protecting or enhancing the environmental impacts to neighbouring dwellings.

As outlined at paragraph 2.3, a further recommendation of practitioners as consistently communicated to the DCP Working Party is for Chapter B3 to contain a section or sections which acknowledge situations where an improved environmental outcome can be demonstrated to the satisfaction of Council, and where variations to the numerical controls will be considered by Council on merit.

6. SECTION B3.2.4 REAR SETBACK

Practitioners agree with and support the proposed amendments to *Section B3.2.4 Rear Setback*.

The current rear setbacks controls of the DCP are difficult to calculate, open to interpretation, ambiguous, and on irregular shaped sites, can result in undesirable environmental outcomes.

It is also the opinion of practitioners, that on irregular sites, it would be difficult for Council at the present time to defend the current controls if these were challenged by way of a Land & Environment Court Appeal for the reasons given above.

It is the opinion of practitioners that the environmental impacts of the proposed amendments are similar to the previous DCP and will not result in increased impact to neighbouring properties or the public domain.

7. SECTION B3.2.5 WALL HEIGHT & INCLINED PLANE

While practitioners generally support the objectives of *Section B3.2.5 Wall height and inclined plane*, we have consistently argued throughout the DCP Working Party process, that the means of determining the maximum wall height as outlined in control C1 is based upon a flat site, and makes no allowance for the varied topography within the Woollahra Municipality, including the many steeply sloping sites found in most precincts within the Municipality.

7.1 The diagrams below demonstrate the resulting building form compliant with maximum wall height control on sites with a 15 degree slope (Eastern & Western Slopes of Bellevue Hill, western slopes of Rose Bay, and many parts of Vaucluse), and those with a 25 degree slope

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(Darling Point, Point Piper and parts of Bellevue Hill, Rose Bay & Vaucluse), together with comparison of building form when the maximum wall height is averaged across side boundaries of development.

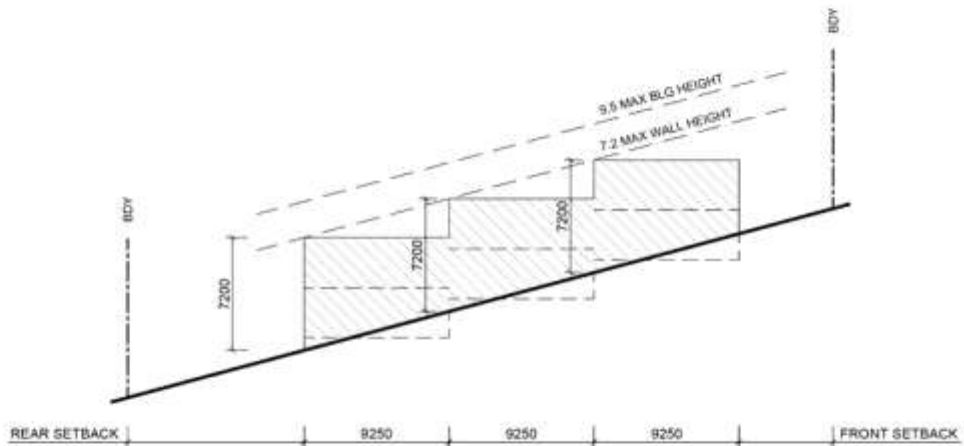


FIGURE 1 : EXISTING MAXIMUM WALL HEIGHT CONTROL ON SITE WITH A 15 DEGREE SLOPE

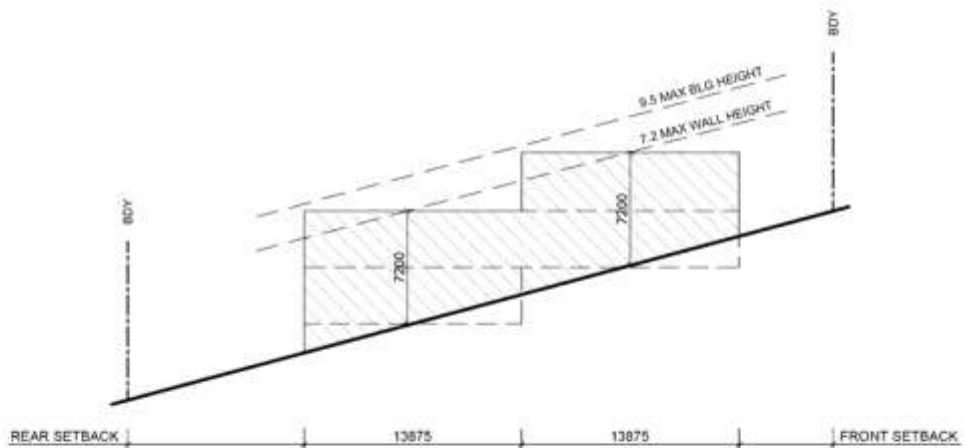


FIGURE 2 : RESULT OF AVERAGING THE MAXIMUM WALL HEIGHT CONTROL ON SITE WITH A 15 DEGREE SLOPE

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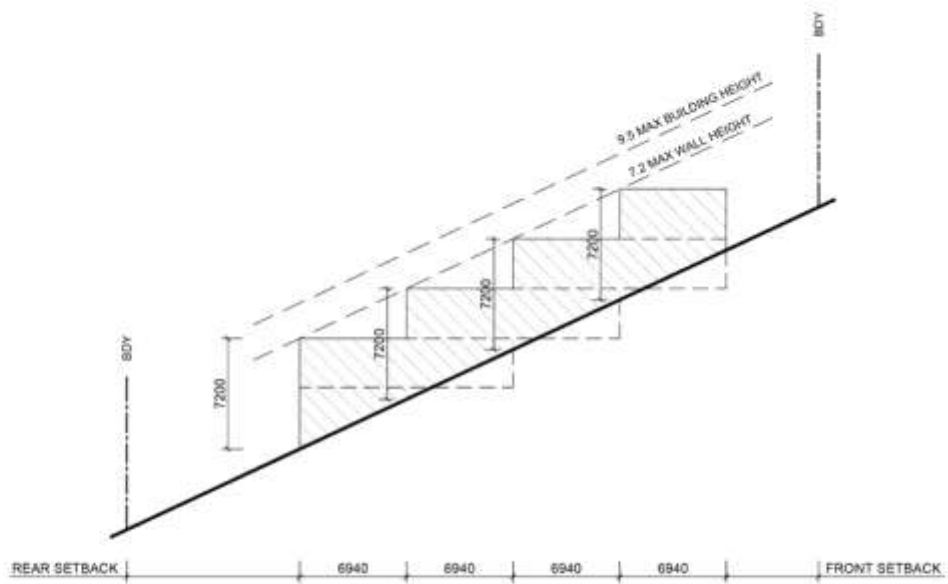


FIGURE 3 : EXISTING MAXIMUM WALL HEIGHT CONTROL ON SITE WITH A 25 DEGREE SLOPE

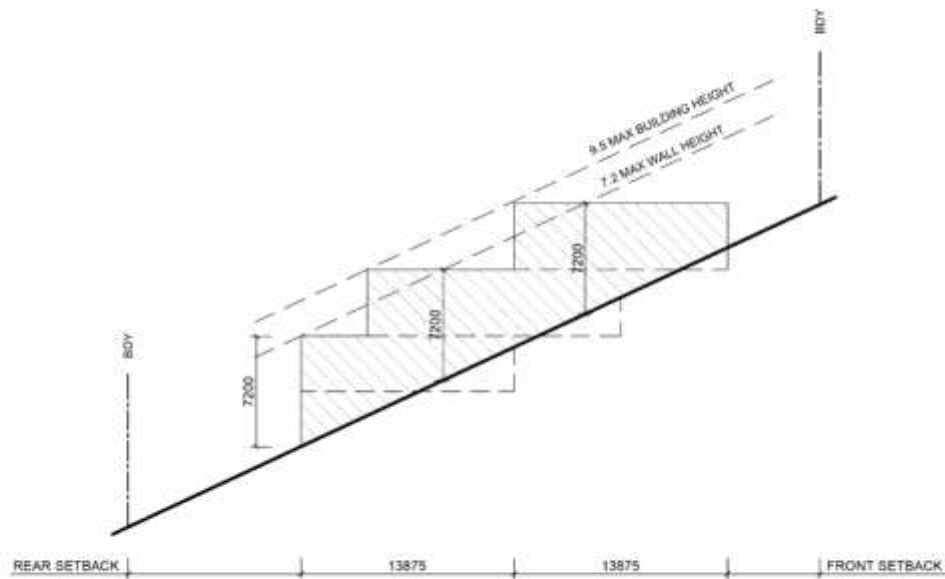


FIGURE 4 : RESULT OF AVERAGING THE MAXIMUM WALL HEIGHT CONTROL ON SITE WITH A 25 DEGREE SLOPE

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- 7.2 As is demonstrated in the diagrams above, strict compliance with the maximum wall height control on sloping sites results in adverse amenity impacts for the proposed development, including the necessity for split level floor plates, without necessarily having any greater impact of neighbouring properties.

However, in contrast, averaging the maximum wall height controls as demonstrated in diagrams 2 & 3, enables larger floor plates and amenity for the development, without compromising the amenity of neighbouring properties due the additional requirements of *Chapters B3.5.2 Overshadowing, B3.5.3 Public and private views, B3.5.4 Acoustic and visual privacy*, all which provide objectives and prescriptive controls to minimise impact on neighbouring dwellings resulting from wall heights adjacent to boundaries.

When considering the diagrams above, it should also be noted that many properties in Darling Point, Bellevue Hill, Point Piper and Vaucluse have slopes in excess of 30 degrees resulting in even smaller floor plates to comply with the current control.

- 7.3 Therefore, it is the opinion of practitioners that *Section B3.2.5 Wall height and inclined plane* requires further amendment including the requirement to provide variation of the prescriptive control C1 and Figure 9 where developments are located on sloping sites.

It is also the opinion of practitioners, that if a variation to control C1 and Figure 9 are not including in the DCP, then it would be difficult for Council to defend the current controls if these were challenged by way of a Land & Environment Court Appeal, due to the maximum wall height on sloping sites being open to interpretation.

For the reasons outlined, practitioners continue to object to control C1 of *Section B3.2.5*, which is unnecessarily restrictive, unreasonable, and difficult to achieve of sloping sites, and in many cases unnecessary in the attainment of the objectives.

8. SECTION B3.3 FOOTPRINT

Practitioners generally agree with, and support the proposal to amend *Section B3.3* from the previously Floor Plate objectives and controls to a set of Building Footprint objectives and controls, and also generally agree with draft objectives O1 to O5.

- 8.1 However practitioners also believe that these objectives do not adequately address the issue of maintaining/providing deep soil landscaping which practitioners have consistently argued should be a fundamental requirement of the DCP including when determining the building footprint.

One of the most significant, and arguably important, attributes and amenity of the Woollahra Municipality, identified by residents and visitors alike, are its mature trees, historical plantings, open spaces and topography both within the private and public domains.

The desired future character objectives as identified within the various precincts of the DCP confirm the importance of, conservation of, and protection of natural vegetation and landscaping.

- 8.2 Practitioners therefore submit that the most appropriate means to achieve these objectives is to ensure that the location of, and area covered by the building footprint does not compromise the ability to achieve the objectives of *Section B3.7.1 Landscaped area and private open space*, nor the numerical controls contained in controls C1 to C4 of *Section B3.3 Footprint*.

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- 8.3 Practitioners therefore submit an additional objective and control should be inserted within *Section B3.3 Footprint* as follows, and the following objectives and controls numbering be amended accordingly;

O2 *To ensure the location and size of the total building footprint on the site allows for the retention of mature trees and significant landscaping, and allows for deep soil landscaping in accordance with Chapter B3.7.1 Landscaped area and private open space.*

C4 *The built form, including garaging and ancillary buildings, allows for compliance with the objectives and numerical controls for deep soil landscaping in accordance with Section B3.7.1 Landscaped area and private open space.*

- 8.4 Practitioners are strongly opposed to the amended definition of Building Footprint.

Practitioners have consistently argued during the DCP Working Party process that the inclusions of *covered decks, balconies, entry porches, verandahs, porte cochers, and crofts and the like* in the calculation of Building Footprint would result in undesirable environmental effects and loss of amenity by encouraging the maximisation of internal areas to the detriment of good design outcomes.

While these elements have now been deleted from the amended descriptive 'wording' of Building Footprint, they have been reintroduced in the amended definition by way of the diagrams at Figure 10, which provides for all building elements, whether internal or external, excluding uncovered terraces and decks 2m above existing ground level to be included within the building envelope.

As practitioners have previously consistently argued;

- only those building elements which contain internal areas above or below should be included in the definition of Building Footprint, and should be clearly defined in the wording of Building Footprint and contain no ambiguity,
- the proposed amendment which includes all building elements (other than decks and verandahs below 2m above existing ground level) within the definition of Building Footprint will result in the unintended and undesirable effect of minimising balconies, porches, overhangs, awnings, solar protection devices and the like to the detriment of good design outcomes, including environmental amenity and sustainability.
- The DCP currently contains adequate objectives and controls within other sections, including building setbacks, solar access, and view impact requirements which protect the amenity of neighbouring properties and the public where building elements which are not included with the definition of Building Footprint may result in adverse amenity impacts.
- Considering the topography of the Municipality, much of which is steeply sloping, restricting the inclusion of terraces and decks to a height of 2m above existing ground level provides no consideration for site context, amenity, sustainability principles or exemplary design, and therefore, given previous comments, is both unreasonable, unnecessary, and undesirable.

Together with the above, it is also the opinion of practitioners that the inclusion of diagrammatic illustrations, as provided at Figure 10, often results in restricting other potential

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design responses, and in the case of Figure 10, the potential for interpretation and ambiguity with the resulting potential for challenges to the Council's planning controls by way of appeal to the Land & Environment Court.

- 8.5 Subject to the submissions preceding, practitioners are generally in support of the proposal to calculate Building Footprint on a sliding scale as proposed in Figure 11.

Practitioners are also in support of the recommendation to vary the sliding scale as outlined in Figure 11 to allow the provision of differing building footprints commiserate with the various precincts with the Municipality, which can vary considerably.

In regard to the above, and as previously submitted, practitioners believe that it is vitally important that calculation of the building footprint using the slide scale for each precinct is determined from actual building consent approvals in each precinct over a period of time not from the previous DCP FSR controls.

- 8.6 Practitioners are not in support of control C5 (parking structures) in its present form.

To encourage car parking to be located within the building envelope in accordance with objective O3, then the concession for the permitted building footprint should be based upon the size of a car parking structure consistent with Council's off street car parking policy and compliant with Australian Standards.

We therefore note that Council's car parking policy provides a maximum of two on-site parking spaces for a single dwelling, with the required dimensions of two parallel parking spaces in accordance with AS 2890.1 2004 equating to 29.16 m².

Consequently, we argue that the numerical concession to the calculation of the building footprint where the car parking structure is located within the building envelope should be a minimum of 30m².

For the reasons outlined above, while practitioners are generally in strong support of the proposed amendments to *Chapter B3.3*, it is our opinion that further modifications as outlined are required to this chapter in order to create a set of robust objectives and controls which attain the aims of prescribing and calculating the building envelope and footprint.

It is also our opinion, that until modifications to this Chapter are undertaken, the ability for Council to assess development applications relating this chapter in an objective and consistently manner will be substantially compromised, resulting in potential challenges to Council's determinations, which in turn will potentially compromise the integrity of objectives and controls relating to building envelopes and footprint.

9. SECTION B3.4 EXCAVATION

Practitioners confirm their strong opposition to the current objectives and controls contained in *Section B3.4 Excavation*, both in respect to the existing as well as proposed amendments.

9.1 Opposition of practitioners to the current objectives & controls of *Section B3.4 Excavation* is based upon the following;

- case studies provided by practitioners to the DCP Working Party clearly identify that the short term objectives of *Section B3.4 Excavation* in regard to the objective of reducing energy and

carbon emissions during excavation have a detrimental effect on the ability to provide natural heating/cooling and ventilation during the building's lifecycle, therefore substantially limiting positive outcomes to building occupants and the public over the long term.

This opinion, identified by way of case studies and academic papers, is supported by Council's own consultant on the DCP Working Party.

- as demonstrated to the DCP Working Party, the present objectives and controls contained in *Section B3.4 Excavation* may in some cases result in protecting the amenity of neighbouring properties in the short term, but in the long term substantively and detrimentally effect the ability to achieve significant benefits to building occupants and the public in the long term, including the ability to achieve the principles of ecologically sustainable development.
- the risk to, and protection of neighbouring properties, infrastructure and the public is not affected by the quantum of excavation, but rather the methodology by which it is carried out, consequently with appropriate safeguards and controls provided by Section B3.4, excavation risks and long term environmental effects are not increased as a result of increased volumes.
- excavation, subject to appropriate risks being mitigated by technical requirements and restrictions, provides many positive benefits to building occupants, neighbouring property owners and the public by;
 - (i) reducing the bulk and scale of buildings where overshadowing, view impacts, or other visual or acoustic environmental impacts occur.
 - (ii) providing off street car parking which does not result in additional bulk or scale, but which provides positive amenity to building occupants and the public, including opportunities for decreasing parking in residential streets, conserving and enhancing street trees and plantings and general public domain improvements.
- excavation for the purposes of providing off-street parking is supported by all residents and building owners practitioners have canvassed, and in the opinion of practitioners, the current excavation controls are not supported by the majority of residents and building owners.
- in the opinion of practitioners, the current objectives and prescriptive controls of *Section B3.4 Excavation* are not based upon sound scientific or geotechnical data sufficiently robust to enable Council to defend these objectives or controls, and in support of this opinion, practitioners believe that Council has been unsuccessful in any Land & Environment Court Appeal in regard to excavation volumes.

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- Since the introduction of the present excavation objectives and controls, development consents issued by Council which relate to excavation are variable and inconsistent, with volumetric approvals varying considerably to that of the prescribed prescriptive requirements, including approvals four and five times greater than the prescribed controls.
- 9.2 Opposition of practitioners to the proposed amendments to *Section B3.4 Excavation* is based upon the following;
- as demonstrated by the case studies provided, development applications approved and refused by Council, and the comments provided above, the present excavation objectives and controls are unreasonably, unnecessarily prescriptive and restrictive, hinder long term amenity and environmental benefits over short term amenity impacts, and do not result in increased risk mitigation to neighbouring properties of the public.
 - the amendments as proposed do not result in achieving;
 - (i) better short or long term environmental outcomes, improved amenity or public benefits.
 - (ii) any substantive reduction to the degree of unreasonableness or unnecessary restrictions in the current controls.
 - (iii) any substantive improvements in creating a set of objectives and controls which are sufficiently robust to allow Council to successfully defend these upon appeal.
 - Council has been, and is not consistent in the manner which it applies restrictions on excavation volumes, for example Paddington has arguably greater risk for higher excavation volumes, yet there are no volumetric restrictions within the DCP for excavation in Paddington.
- 9.3 Practitioners have consistently argued that the objectives of *Section B3.4 Excavation* should relate to the need to conserve and protect existing trees, significant landscaping and topography, protect and enhance opportunities for deep soil landscaping, protect adjacent structures, and mitigate risk to the private and public domains associated with excavation activities, while providing opportunities for achieving improved amenity for both occupants, neighbouring properties and the general public.
- these objectives can be adequately achieved without the current unreasonable and unnecessary restrictions of excavation volumes, as has been demonstrated by the numerous case studies we have provided, together with numerous examples of development outside this Municipality which has through excavation, delivered improved amenity to occupants and the general public, while achieving the principles of ecological sustainability over the long term.
 - further to our recent verbal submissions to Council's senior planning staff, allowing excavation for the purposes of on-site car parking, significantly improves our streets and public spaces by reducing the demand for street parking, allowing opportunities for additional street trees and landscaping in suburban streets, improves the visual quality of the public domain, as well as providing pedestrian centric streets, rather than ones dominated by parked cars.
 - when considering the impacts of excavation, it is vitally important to separate the short term impacts of excavation over those of the long term, as in the long term, well considered and well executed excavation provides significant long term amenity benefits.

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- well considered objectives and sound geotechnical controls can adequately mitigate the risk associated with excavation, without the need for volumetric restrictions, or the restricting the ability to provide increased amenity to occupants, neighbouring properties or the general public.

We therefore provide at Annexure 2 an amended set of excavation objectives and controls for Council's consideration, which in the opinion of practitioners will mitigate and control risk without compromising the ability for increased amenity or unnecessarily and unreasonably restricting excavation volumes.

For the reasons provided above, practitioners continue to voice their strong objection to both the existing and proposed objectives and controls of Section B3.4 Excavation, but trust that Council will objectively consider the draft objectives and controls provided by practitioners which we believe achieve both the short and long term objectives for excavation.

10 SECTION B3.6 ON-SITE PARKING

Practitioners confirm the general support of the objectives of *Section B3.6 On-site parking*.

- 10.1 However practitioners believe that an additional objective should be added as below to ensure that mature trees, significant landscaping, and the ability to comply with the minimum requirements for deep soil landscaping are not adversely affected by on-site parking facilities.

O8 *To ensure that on-site parking does not adversely impact upon significant trees or landscaping or prevent the ability to provide deep soil landscaping in accordance with the objectives and numerical controls for deep soil landscaping of Section B3.7.1 Landscaped area and private open space.*

- 10.2 Practitioners also draw attention to previous submissions made to the DCP Working Party, including the provision of case studies, that the current objectives and controls for *Section B3.6 On-site parking* are predominately based upon the minimisation of impact to the streetscape, integration with the principle building form, and location of on-site parking within the building envelope.

This is consistent with Section B3.3 Footprint which also contains objectives and controls to encourage location of on-site parking/garaging within the building footprint.

- 10.3 However due to the typical sloping topography of the Municipality, in order to achieve the objectives detailed above, excavation is often required, with the present excavation volume restrictions preventing the attainment of these objectives.

The case studies presented by practitioners clearly demonstrate that the current and proposed excavation objectives and controls are in conflict, and prevent the attainment of the important objectives of *Section B3.6 On-site parking* which are intended to minimise impact on the streetscape character while allowing on-site parking which in turn minimises parking demand on suburban streets (refer previous comments in Section 9.3)

For the reasons given above, and in Chapter 9 of this submission, practitioners submit that there should be no restrictions on either the number of on-site car parking spaces provided, nor on the volume of excavation required to allow car parking to be placed within the building envelope, where existing significant trees and landscaping is retained, and deep soil landscaping requirements are met.

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Providing on-site parking ensures that;

- As previously identified at Chapter 8.1, “...*the most significant, and arguably important, attributes and amenity of the Woollahra Municipality, identified by residents and visitors alike, are it’s mature trees, historical plantings, open spaces and topography both within the private and public domains...*” are protected and enhanced.
- The key objectives of the desired future character objectives of various precincts identified in the DCP confirm the importance of, “.....*conserving and protecting topography, natural vegetation and landscaping.*”
- Reduces the propensity of cluttering up our suburban streets with parked cars, which results in adverse physical and visual impacts on the environment for both residents and the public alike.

ANNEXURE 1

B3.1.3 Objectives

Woollahra Council is committed to design excellence deemed to be achieved when development meets the following objectives;

- O1 Is consistent with or supports the desired future character of the area;
- O2 Conserves, protects, and where circumstances allow, enhances the special qualities of the location both in respect to the private and public domains;
- O3 Respects the natural, built and cultural significance of the location, while allowing contemporary design and innovation;
- O4 Conserves and protects established trees, deep soil landscaping, and significant plantings, together with enhancing opportunities for additional trees and landscaping;
- O5 Achieves high levels of occupant amenity while minimising adverse long term amenity impacts on both the private and public domains;
- O6 Incorporates and encourages the principles of ecologically sustainable development; 07 Is assessed by peer review to have achieved appropriate standards of architecture.

Proposed development subject to Chapter B3 General Development Controls will be assessed against these objectives.

ANNEXURE 2

B3.4 Excavation

Objectives	Controls
O1 To allow buildings to be designed and sited to relate to topography.	C1 Where excavation is within the root zone of significant trees, an arborist/horticultural report prepared by a suitably qualified person must be provided to Council confirming that proposed excavation will not result in detrimental impacts to the health or stability of the tree.
O2 To allow excavation which provides increased amenity and improved environmental outcomes.	
O3 To ensure that excavation allows for the retention of mature trees and significant landscaping, and allows compliance with the objectives and numerical controls for deep soil landscaping in accordance with Chapter B3.7.1 Landscaped area and private open space.	C2 Excavation shall not reduce the ability to provide deep soil landscaping in accordance with the objectives and numerical controls for deep soil landscaping of Section B3.7.1 Landscaped area and private open space.
O4 To ensure the cumulative impact of excavation does not adversely affect the integrity of existing structures, land stabilisation, or ground water flows.	C3 Excavation shall not detrimentally affect the ability to attain the desired streetscape character objectives of the DCP within the precinct in which it is to be carried out.
O4 To ensure that excavation is undertaken in a manner which does not result in unreasonable or unnecessary environmental impacts, including environmental impacts associated with air quality, dust, noise, vibrations or pollution.	C4 Sub-surface walls including piling are no closer to side or rear boundaries than permitted by the building setback controls unless it can be demonstrated on merit that better environment outcomes will result.
O5 To ensure the cumulative impact of excavation does not adversely affect public infrastructure, the integrity of existing structures, land stabilisation, or ground water flows.	C5 Where excavation, in the opinion of Council, has the potential to impact upon public infrastructure, the integrity of existing structures, land stabilisation whether on the subject site, neighbouring properties or public land, ground water flows, or result in other adverse environmental impacts, Council will require the preparation of appropriate technical reports, including, but not limited to, geotechnical, hydrogeotechnical, or hydraulic reports, prepared by suitable qualified persons confirming to Council's satisfaction, the risks associated with the proposed excavation, together with how excavation is to be carried out to reduce and mitigate identified risks. Note: Council may identify other circumstances where reports are required. All reports must be prepared in accordance with Council's guidelines
	C6 Where it is identified that neighbouring structures are within the zone of influence of proposed excavation, pre-commencement and post construction dilapidation reports prepared by suitably qualified persons will be required by Council.

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Annexure 6



Waverley Council
PO Box 9, Bondi Junction NSW 1355
DX 12006, Bondi Junction
Customer Service Centre
55 Spring Street, Bondi Junction NSW 2022
ABN: 12 502 583 608

Our ref: A07/0665

2 December 2016

General Manager
Woollahra Council
GPO Box 61
Double Bay NSW 1360

Dear Sir / Madam

**Re: Submission on proposed changes to Woollahra Development Control Plan 2015 (WDCP)
- Reference SC3660.**

Thank you for the opportunity to make a submission on the proposed changes to the Woollahra Development Control Plan 2015. Please note that this submission is the opinion of Council Officers and not that of the elected Council.

Overview

As Woollahra is aware, Waverley shares a boarder with Woollahra and therefore we share common interests in changes to controls that may affect both our residents, businesses and visitors. In principle, Waverley supports the simplification of, and changes to, the WDCP. Our submission is limited to general comments that may improve the implementation and operation of the proposed controls.

General comments on the proposed changes to Woollahra Development Control Plan (WDCP)

As mentioned above Waverley gives in principle support for the proposed WDCP. Below forms general comments:

1. *B3.1.1 Development to which this chapter applies* (page 6) has three new paragraphs, this section could be made clearer by swapping the last two paragraphs.
2. *B3.2.1* (page 9) mentions that eaves can protrude from the building envelope but not from the building footprint. This allowance could be unified so it is permitted in both to avoid confusion and allow for greater flexibility.
3. Waverley supports the new *Objective and Control* tables in each section of the DCP.

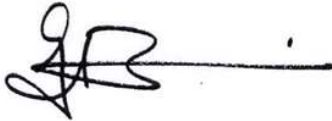
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Web: www.waverley.nsw.gov.au

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www.youtube.com/user/WavCouncil

4. Waverley supports the consolidation of control 3 in *B3.2.3 Building Envelope Side Setbacks* (page 14).
5. Side setbacks based on frontage width (rather than height) are confusing and appear unrelated (figures 5 and 6, page 17). Issues relating to building articulation and curtilage should be addressed separately.
6. The new diagram to replace Figure 9 (page 23) is over simplified and doesn't clearly explain how D is calculated. An angle diagram should be placed between lines D and C showing exactly how the 45 degree angle is calculated (such as that in the old diagram but in a more appropriate position). Alternatively in the description, D could say "45 degrees from 7.2m" instead of "inclined plane: 45 degrees to horizontal". The white background behind the letters also adds to clutter when they sit over the blue background.
7. Figure 11 (page 30) contains a corresponding letter next to each line, except line C which is indicated by an arrow. This diagram could be simplified by placing each letter on each respective line or by incorporating shading into each area to differentiate between all three.

Should you wish to discuss any of the matters in this submission, please contact Adrian Ellis (Strategic Planner) on [REDACTED] [REDACTED] during normal business hours.

Best regards,



George Bramis
Executive Manager, Shaping Waverley

P. Binetter
[REDACTED]
Vaucluse NSW 2030

January 27, 2017

The General Manager
Woollahra Municipal Council
records@woollahra.nsw.gov.au

Dear Sir/Madam,

Reference number SC3660

**Submission in response to Exhibition of Draft Woollahra Development Control
Plan 2015 (Amendment No. 2)**

Area of Specific Comment : Footprint table at Figure 12

I am a long term resident and property owner in the Woollahra Municipality.

Firstly I wish to commend the Council and the members of the Woollahra DCP 2015 Working Party (Council staff and practitioner members) in their intent to provide a more simplified approach to the controls defined within the DCP while enabling a high level of architectural quality built form and environmental amenity to be achieved.

While I note that there are a number of areas where practitioner members and Council staff members of the Working Party did not agree, the overall outcomes proposed has, I believe, moved the agenda forward in a positive and collaborative manner. This model for the evolution of the planning framework of our municipality should be recognised and commended.

However there is one particular area of the proposal that I believe is significantly sub-optimal and should be revised before this amendment is finalised. Specifically I refer to the Footprint table at Figure 12.

Overall, the implementation of a Footprint control in replacement of the prior Floorplate control is a positive change – as the Footprint measure and control is simpler and easier to determine and is more effective in combination with the other controls of setback and height as compared to the Floorplate control which is cumbersome, difficult to calculate and interpret and potentially conflicting with other control elements.

The Footprint table at Figure 12, as currently presented in the Draft DCP, provides a logical gradation of allowable Footprint based on site area, however it also introduces a separate set of measures for the Point Piper precinct. This is based on the rationale that this is required to reflect the desired future character for the Point Piper precinct.

● Page 2

January 27, 2017

I note that the desired future character for the Point Piper precinct is detailed at B1.6.2 in Part B of the Woollahra Development Control Plan 2015 Approved Version 23 May 2015 with the following objectives :

Desired future character objectives

- O1 To respect and enhance the streetscape character and key elements of the precinct.
- O2 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings, incorporating modulation and a varied palette of materials.
- O3 To ensure that development on the low side of the street maintains a consistent front setback.
- O4 To design and site buildings to respond to the topography and minimise cut and fill.
- O5 To protect iconic and harbour views from the street and other public spaces in the precinct, including views between buildings and over or through front fences.
- O6 To ensure that development facilitates view sharing to adjoining and adjacent private properties.
- O7 To maintain the sense of the historic grand estates by retaining the garden settings and streetscape elements.
- O8 To encourage the retention of the Inter-War flat buildings, particularly significant and traditional building elements visible from the street.
- O9 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.

I note that while each precinct (including Point Piper) has its own future character objectives with an element of variation and distinctiveness (to a great or lesser extent) one precinct to another, there is nothing in the above character objectives for the Point Piper precinct that would, of itself, necessitate separate Footprint percentage measures.

Notably many of the characteristics of the Point Piper precinct are shared by other precincts and in particular there is significant commonality with the Rose Bay, Vaucluse East and Vaucluse West Precincts.

Under the currently presented Draft Footprint table, a single family home on a steeply sloping site of say 1000sqm the in the R2 Low Density Residential zone in Point Piper could be developed with a Footprint 35% while a comparably equivalent single family home on a steeply sloping site of say 1000sqm in the R2 Low Density Residential zone in Vaucluse East could only be developed with a Footprint of 30%. There is no evident logical rationale for why such a difference should be permitted (and enshrined within the DCP) if the site characteristics, relationship to streetscape and environmental elements and the intended usage/accommodation are largely equivalent.

However if a given site has certain unusual characteristics (perhaps slope or shape related), or should the intended usage be more intensive - such as a permitted dual occupancy within an R2 Low Density Residential zone, this may, on a merit based assessment, warrant a somewhat more accommodative Footprint percentage being provided for. However such a merit based allowance should be equally available across the Municipality.

Given the current format, it could be easily misinterpreted that the current Draft Footprint Table is making a special set of rules to give preferential treatment in respect of development intensity to owners in Point Piper as compared to owners in the rest of the Municipality.

I am sure this is not the intent, and I am sure the intent is to ensure that within the DCP there is sufficient flexibility to respond, on a merit basis, to specific site and proposal circumstances while maintaining the overall aims of "enabling a high level of architectural quality built form and environmental amenity to be achieved", while achieving the desired future character objectives of each specific Precinct.

It is also notably an unfortunate fact that Council's resources (which are a communal resource) can all too often be consumed in expensive legal challenge to Council's DA approval outcomes. It is also an

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unfortunate fact that those with significant financial resource (not uncommon in the Point Piper precinct – but also prevalent in parts of the other precincts) may have the greatest propensity to utilise the Court appeal process to challenge the Council's DA approval outcomes.

Given this, it is highly desirable that the DCP provide both a well defined and defensible planning control framework as well as an effective level of flexibility to allow Council officers, and Council DA Decision Committee's to judgmentally respond on a merit basis to each particular DA submission (but in an egalitarian manner), so as to avoid (or at least lessen the incentive) for unsatisfied DA applicants to vexatiously utilise the Court appeal process, particularly where the Council's DCP demonstrates both a well defined control framework and specific level of flexibility to guide and manage merit based variations in respect of specific site characteristics and usage considerations.

For these reasons, I propose that the flexibility currently provided specifically to the Point Piper precinct in the Draft Footprint table at Figure 12 should be revised, by somewhat increasing the percentages upwards and to be made generally applicable as an element of flexibility to be judgmentally applied by Council officers and Council DA Decision Committee's. I propose that this can be achieved by the following simple amendment to the Footprint table at Figure 12 :

Figure 12 Footprint table

Site area (square metres)	Percentage of site areas permitted as footprint (%)	
	All Sites	Sites where Council determined merit based variation applies
< 200	55	55
200 - < 250	47	52.5
250 - < 300	41	50
300 - < 350	37	47.5
350 - < 400	33.5	45
400 - < 450	31	43
450 - < 500	30.5	41
500 +	30	40

Implementing this simple but effective change to the Draft Footprint Table at Figure 12 would have the benefit of ensuring that the DCP demonstrates :

- a well defined control framework,
- a specific and effective level of flexibility to guide and manage merit based variations in respect of specific site characteristics and usage considerations,
- the potential for the perception that there is preferential treatment for owners in the Point Piper precinct is avoided,

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- there is an egalitarian framework for the consideration of merit based variations of the Footprint percentage,
- the determination of the use of variations remains in the control of Council,
- the incentive for vexatious utilisation of the Court appeal process by unsatisfied DA applicants is potentially reduced,
- the overarching guiding principle of *"enabling a high level of architectural quality built form and environmental amenity to be achieved"* is maintained and supported with an effective level of flexibility defined within the framework

Finally it should be noted, the implementation of the above changes would not necessarily eliminate the possibility that Council may, in highly unusual cases, apply an even greater level of flexibility to the Footprint percentage it allows in a specific DA approval, however the likely need for such and the potential for such a highly unusual case to become precedent setting becomes significantly reduced, because the framework itself defines and guides a quantum of flexibility in the Footprint percentage measure.

Yours sincerely,

Peter M. Binetter

Double Bay Residents' Association Inc

Double Bay NSW 1360

February 14, 2017

SUBMISSIONS RE DRAFT WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015 (AMENDMENT NO 2)

Introductory

The sequence of these submissions and paragraph referencing follow the order of the DCP with the proposed amendments:

Proposed changes to the draft DCP as exhibited are *italicized*

B 3.1.3 Objectives

Two important existing objectives, O5 & O7, which protect neighbouring properties, have been deleted from the proposed "criteria" and should be added to those criteria.

add: "To ensure that development establishes a good relationship to the streetscape context."

and: "To minimize the negative impacts of development on the amenity of adjoining and neighbouring properties"

B 3.2.1 Building Envelope Controls (Development in the R2 Low Density Residential Zone)

Reference is made here to allowing eaves to intrude for 450mm outside the building envelope as long as the protrusion is below the inclined plane. We deal with this under the heading "Side Setbacks" below.

Replacement of "floorplate" with "footprint" is similarly dealt with under the "Footprint" heading below.

B 3.2.3 "Side Setbacks" – Dwelling Houses, Semi-detached Dwellings & Dual Occupancies

Adequate side setbacks are important to a resident whatever the width of the adjoining site being developed for at least the following reasons:

- (1) To avoid oppressive building bulk and a sense of enclosure – just imagine standing on your side boundary looking up at a sheer 7.2m high wall 900mm or 1m away.
- (2) To provide a reasonable amount of light into the side windows of adjoining homes and help preserve views from them.
- (3) To provide a reasonable level of privacy between homes.
- (4) To provide attenuation of noise passing between homes.
- (5) To allow for a reasonable level of side planting and landscaping.
- (6) To limit the amount of overshadowing caused by over close structures on adjoining land.
- (7) To avoid a street wall effect on the streetscape.
- (8) To allow external access between the front and rear of the site.

Having regard to those matters we believe that it is unfortunate that it is proposed to delete important objectives of side setbacks which are set out at this point in the existing DCP.

Restore the following existing objectives:

“To protect the acoustic and visual privacy of residents of adjoining properties” (O1)

“To ensure the exterior of the building is appropriately articulated” (O8)

“To limit the sense of enclosure to adjoining properties” (O9)

“To improve amenity and facilitate daylight and solar access to the site and adjoining properties” (O10)

Figure 5 (Side setback table for dwelling houses, semi-detached dwellings and dual occupancies).

We refer to the following entirely inadequate side setbacks as set out in Fig 5:

Site width	Side setback
< 9.0	0.9
9.0 - < 11.0	1.1
11.0 - < 13.0	1.3

These setbacks are potentially further reduced by the allowance of a 450mm eave intrusion so that the true setbacks become :

Site width	Side setback
< 9.0	450mm
9.0 - < 11.0	650mm
11.0 - < 13.0	850mm

We firstly oppose this further intrusion into side setbacks (F 9). This eave intrusion allowance of 450mm conflicts with reasons (1) and (2) as set out at the beginning of this section. The eave intrusion will increase the sense of enclosure and oppressiveness and reduce the amount of light.

Delete the intrusion allowance by eaves of 450mm save where the side setback is at least 1.5m.

In our view we should have regard to the side setbacks obtaining in municipalities of similar prestige and quality in relation to dwelling house construction and standards of amenity.

Mosman Residential DCP 2012 provides that with two storey developments up to a 7.2m wall height the minimum setback is **1.5m** (P8 (b) – page 27). It further provides that for new buildings side setbacks should be equal for all levels of the building (P10).

Lane Cove Council DCP 2010 provides that side setbacks are to be a minimum of **1.5m** for a two storey dwelling. (Part C 1.3.2 (a)).

Hunters Hill Consolidated Development Control Plan 2013 provides that side boundary setbacks where there is a 7.2m wall height should not be less than **1.5m**. (page 41).

The need for adequate side setbacks with dwelling home construction as set out in reasons (1)–(8) above are minimal requirements which should not be sacrificed just because the development site next door is a particularly narrow one. The adjoining resident after all still has the same absolute need for light, freedom from oppressiveness and overshadowing, privacy etc. whatever the width of the adjoining site. The developer of the narrow site should be the one to adjust, either by reducing the width of the proposed development or amalgamating sites to obtain a development site of reasonable width.

*Accordingly we propose that the table (Figure 5) should be amended in respect of the first three site widths so as to require in the case of a development of two or more storeys there be (as with Mosman, Lane Cove and Hunters Hill) a minimum setback of **1.5m**. No amendment is necessary in the case of site widths of 13.0m or greater.*

B 3.3 Deletion of Floorplates and Introduction of Footprint.

We know of no other council in NSW which has abandoned bulk controls in the case of dwelling houses, semis and dual occupancies in favour of a mere footprint control.

Other councils use floor space ratio to control the bulk of dwelling houses in either a Low Density or Medium Density zone. Floor space ratio is what is used by Woollahra for residential flat buildings, and, as with other councils, that FSR is within the LEP. It is entirely illogical not to do what other councils do and introduce an FSR control into the Woollahra LEP for dwelling houses.

Applications to vary the FSR in a particular case could be dealt with under clause 4.6 of the LEP.

The above point is largely conceded by staff at page 65 of their report to the Urban Planning Committee of 31st October 2016. They point out that both Randwick and Waverley use an FSR of 0.5:1 for dwelling homes in their residential zones. They describe the proposed “Footprint” as “a short term solution”.

Consultant town planners to whom we have spoken do not agree that the present "Floorplate" provisions in the existing DCP are not working or are causing confusion. They apply the front, rear and side setbacks and then multiply the resultant area by 1.65 or 165% to give a maximum buildable area. One town planner practising in Woollahra told us that in his view the "Floorplate" was working well and is being generally observed with dwelling house construction.

DBRA says Council should :

- (1) Make the decision to introduce an FSR control into the Woollahra LEP for dwelling house, dual occupancies or semi-detached in the Low Density and Medium Density zones. Clause 4.4 (2A) of the LEP should be deleted.*
- (2) Pending the making of that amendment to the Woollahra LEP, retain the existing Floorplate control in the Woollahra DCP 2015.*

B 3.4 Excavation

We agree generally with staff, that maximum vehicle numbers and volumetric controls should be retained. The panel of four appear to want virtually unlimited excavation for parking which, as staff point out, causes dangers to adjoining properties and unreasonable impact on Council's roads/infrastructure and traffic caused by trucks taking spoil away.

We would propose that the following deleted Objectives be restored

- O 3 To limit damage to Council infrastructure such as roads, from truck movements*
- O 4 To restrict energy expenditure associated with excavation and traffic emissions from truck movements.*

We would ask that Council provides us with a copy of its staff report on the above matters when that report becomes available. We would also ask that we be given reasonable notice of this matter coming back before, presumably, the Urban Planning Committee so that we may have the opportunity to address that Committee.

Yours faithfully,

Mark Silcocks, President

Malcolm Young, Vice-President

The General Manager
536 New South Head Road
Double Bay
NSW 2028

17th February 2017

Attention: Anne White

RE: Submission on behalf of Eastern Design & Planning
Professionals Alliance (EDPPA).

*Exhibition of Draft Woollahra Development Control Plan 2015
(Amendment No 2) - Amendments to Chapter B3 General
Development Controls*

This submission on the proposed Draft Amendment No2 of the Woollahra Development Control Plan 2015 - Chapter B3 General Development Controls is provided on behalf of the Eastern Design and Planning Professionals Alliance (EDPPA), an informal alliance of architects, building designers, town planners and other professionals involved in building design or town planning, and practicing in the eastern suburbs of Sydney.

The objectives and purpose of the EDPPA is to represent and provide submissions on behalf of design and planning professionals practicing in the eastern suburbs to both local authorities and the state government on matters relating to statutory planning instruments, planning policies, or other planning instruments or policies which may potentially affect the building environment or public domain within the eastern suburbs of Sydney.

This submission has been jointly prepared by those practitioners on the Woollahra DCP Working Party and includes previously submissions made by practitioners to the Working Party during the DCP Review Process.

For the reasons provided in our submission, practitioners are strongly opposed to a number of substantive amendments contained in the Draft DCP Chapter B3 as exhibited, and do not support its adoption by Council in its present form.

On 10th October 2016, practitioners provided a detailed submission to Council on proposed amendments to *Chapter B3 General Development Controls*, and despite some amendments between the *Draft Chapter B3 General Development Controls* at that date, and the document as now publicly exhibited, those matters raised and recommendations made in our submission of 10th October 2016 remain largely unresolved.

Further to issues identified and recommendations made in our submission of 10th October 2016, those matters of greatest concern to practitioners regarding the exhibited draft amendments to Chapter B3 are as follows;

EASTERN DESIGN & PLANNING PROFESSIONALS ALLIANCE (EDPPA)
C/O HOWE ARCHITECTS

1. Proposed Building Footprint : *Section B.3.3 Footprint*
 - 1.1 The proposed definition of footprint is not supported as per our previous submissions of 10th October 2016 as this will result in the opinion of practitioners to the deletion or reduction of eaves, balconies, porches, awnings, and other building elements within the available footprint, as inclusion of these elements reduce the area of potential floorspace.
 - 1.2 Consequently the proposed footprint definition would result is more bulky, less articulated buildings, and the loss of building elements which provide significant amenity such as awnings, balconies and the like as per previous submissions provided on 10th October 2016.
 - 1.3 The proposed footprint table provided at *Figure 12, page 18* was not submitted to the DCP Working Party for comment prior to the Draft DCP Chapter B3 amendments being placed on public exhibition and we note;
 - The proposed footprint table only allows for Point Piper to have a differing footprint from other suburbs in the municipality, whereas it was discussed at agreed at various DCP Working Party meetings that approved building footprints and floor areas differed significantly from suburb to suburb, and therefore any numerical formula for proposed footprint and resulting floor areas should take account of historical data on more recent development approvals.
 - The proposed numerical calculations contained in the footprint table result in a substantial reduction in permissible building footprint for sites of 500m² or greater from that of the 2002 DCP, whereas the DCP Working Party was informed by Council planning staff that it was not intended in any proposed amendments to reduce building size from that of previous planning instruments.
 - Practitioners on the DCP Working Party are unaware of what research was carried out by Council staff to support the figures and resulting calculation of footprint contained in the proposed footprint table at *Figure 12*, and if research has been carried out, this should have been provided to the Working Party which was entrusted by resolution of Council to review the 2015 DCP and provide comment on any recommended amendments.
 - 1.4 Research carried out by practitioners following the placement of the draft amendments to Chapter B3 on public exhibition would show that;
 - underdeveloped sites in suburbs' such as Vaucluse (i.e existing single storey homes circa 1930-40's) have existing building footprints of between 28-38%. Consequently the proposed DCP amendments would require new development to reduce building footprint and increase the height of new buildings to achieve the same floor space as the that of the existing dwelling. We consider therefore that this was neither intended, nor a desirable outcome in regard to the proposed DCP amendments.
 - The use of the proposed footprint control to determine permissible floor space will result in many instances of the ability to achieve greater

EDPPA/OUTWARD/170217_EDPPA SUBMISSION ON EXHIBITED DRAFT AMENDMENTS TO DCP CHAPTER B3 GENERAL CONTROLS

permissible floor space than that of the 2015 DCP, and potentially increase permissible floor space to that of historically approved development. We consider therefore that this was neither intended, nor a desirable outcome in regard to the proposed DCP amendments.

1.5 The proposed footprint definition and control in the opinion of practitioners would result in more bulky, less articulated buildings, and the loss of important building elements which provide significant amenity such as awnings, balconies and the like. We consider therefore that this was neither intended, nor a desirable outcome in regard to the proposed DCP amendments.

2. Proposed Building Envelope

2.1 Proposed amendments to front, side and rear setback are supported, however;

- Based on the proposed amendments to setbacks, footprint, wall heights, inclined plane and excavation controls which determine the permissible floor area allowed in the proposed draft amendments, considering limitations on the size of the building footprint, buildings will need to go up not out to achieve the potential permissible floor allowed. We consider therefore that this was neither intended, nor a desirable outcome in regard to the proposed amendments.
- The proposed amendments will potentially result in taller and more bulky buildings than those designed or approved under the current 2015 DCP, and even more so than the 2002 DCP. We consider therefore that this was neither intended, nor a desirable outcome in regard to the proposed amendments.
- Practitioners submit that the combination of the proposed amendments to building footprint, wall height, inclined plane, and maximum building height have not been sufficiently tested to establish the likely result of using a footprint control to determine permissible floor area, and from studies carried out by practitioners, this may well unintentionally result in great building bulk, and therefore a worse environmental result than that of the current 2015 DCP or 2002 DCP.

2.2 Consequently practitioners submit that until such time as rigorous testing by both Council and practitioners by way of case studies on actual sites through the municipality to determine likely building bulk and scale, the proposed amendments to control building footprint and therefore permissible floor space should not be adopted by Council.

2.3 Furthermore, it is the opinion of practitioners that the proposed amendments to the building footprint control to determine permissible floor space will result in a worse outcome than the present DCP floor plate controls which Council planning staff have conceded are difficult to interpret and have Resulted in unintentional adverse outcomes.

3. Excavation Controls : *Section B3.4 Excavation*
 - 3.1 These are not supported as per our previous submission of 10th October 2016.
 - 3.2 The proposed amendments result in further reduction of excavation volumes from that of the 2015 DCP which are considered unreasonably restrictive, lack appropriate scientific evidence of the environmental effects of excavation impacts, and result in loss of long term private & public amenity over short term impacts during the construction.
 - 3.3 The volumetric excavation controls (as amended) are significantly less than excavation volumes permitted in neighbouring Council's, and most other LGA's in the Greater Sydney area, and this reduction in permitted volumes is not supported by scientific rationale.
 - 3.4 Council to our knowledge has not been successful in upholding the numerical excavation controls where these have been channelled by way of a Land & Environment Court Appeal, and we submit any objectives or controls contained in Council's planning instruments should be sufficiently considered and robust to withstand such challenges.

4. On Site Parking : *Section B3.6 On-site parking*
 - 4.1 These controls are not supported for the reason given in our detailed submission of 11th November 2016 on proposed amendments to Chapter E1 Parking & Access DCP.
 - 4.2 Restrictions for on-site carparking volumes are significantly less than those permitted in neighbouring Council's, and most other LGA's in the Greater Sydney area, and this reduction in permitted volumes is not supported by scientific rationale.
 - 4.3 The restriction on on-site carparking is directly linked to restrictions on volumetric excavation controls, and rather than improving amenity for building occupants and the general public, these unreasonable and unnecessary restrictions have resulted in increased parking in suburban streets, with a direct negative impact on streetscape and public amenity.

CONCLUSION;

Despite;

- extensive submissions prepared by practitioners and submitted to the DCP Working Party, including case studies which clearly demonstrated the unnecessary restrictions imposed by the current 2015 DCP resulted in both undesirable loss of amenity and unforeseen environmental impacts;
- the acknowledgement by Senior Council Planning Staff that the current 2015 DCP contains unintentional flaws, discrepancies and ambiguities in respect to building setbacks, footprint and calculation of permissible floor areas;

EDPPA/OUTWARD/170217_EDPPA SUBMISSION ON EXHIBITED DRAFT AMENDMENTS TO DCP CHAPTER B3 GENERAL CONTROLS

- the very time consuming and extensive review of the current 2015 DCP, its implementation and environmental impacts by the DCP Working Party;

the submissions of design and planning professional seem to have been largely ignored in the publicly exhibited draft amends to DCP Chapter B3 General Controls.

In the opinion of practitioners, other than proposed amended building setbacks, and the inclusion of Clause B3.1.3 Design Excellence (with the deletion of the words "*and minimises excavation*"), the proposed Draft DCP as exhibited is still fundamentally flawed, and will potentially result in a worse environmental outcome than the current 2015 DCP.

Consequently not only are practitioners opposed to the proposed amendments to Chapter B3 as exhibited, should Council staff recommend to Council's Urban Planning Committee to adopt the draft amendments without further amendments, or to further consult with practitioners on the significant matters we have raised, then those practitioners on the DCP Working Party wish to have no further involvement in the DCP amendment process, and will have no option but to publicly acknowledge their opposition to its adoption.

Many practitioners have advised that this is the first time to their knowledge that a large group of design and planning professionals have come together in an attempt to work in a spirit of mutual co-operation with a local authority, and to contribute their knowledge and considerable experience towards proposed amendments to what is locally a very important planning instrument which has the potential to significantly impact, adversely or positively, on the environment and society in which we live.

Consequently, it is indeed a sad day when a number of these practitioners, many of whom are highly respected by their peers and the community, consider that the submissions made to Council have not been adequately considered by Council planning staff, and that if adopted by Council, the proposed amendments to the Woollahra DCP will result in greater adverse environmental and amenity impacts to residents of Woollahra than that of the current DCP.

We trust, under the circumstances, that Council will defer any adoption of the proposed amendments to Chapter B3 until such time as the likely outcomes of those amendments can be rigorously tested by way of case studies, and where necessary further consultation and amendments made so as to avoid unexpected and undesirable outcomes as occurred after the adoption of the present DCP.

Yours sincerely



Chris Howe

On behalf EDPPA

Annexure 7

Memorandum

Date 7 November 2016

File No. SC3129

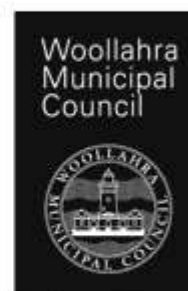
To All Councillors

CC MANEX

From Chris Bluett – Manager Strategic Planning

Subject LATE CORRESPONDENCE:
COUNCIL MEETING 14 NOVEMBER 2016

ITEM R1 URBAN PLANNING COMMITTEE- REVIEW OF
CHAPTER B3 GENERAL DEVELOPMENT CONTROLS OF THE
WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015



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At the Urban Planning Committee meeting of 31 October 2016, Councillors asked staff to investigate the merit of using a site coverage approach instead of a footprint control as part of the proposed new building envelope controls. This request was made in response to the presentation to the UPC by Chris Howe on behalf of the Eastern Design and Planning Professionals Alliance (EDPPA).

The two approaches are summarised below.

Footprint

In the revised Chapter B3, footprint is associated with the building envelope controls. The footprint is expressed as a percentage of the site area and varies based on site size and precinct characteristics. For example, on sites of 500m² the footprint is 30% of the site area other than in Point Piper where the footprint is 35%. A building's footprint must be located within the building envelope.

The objectives for the footprint control relate to desired future character, view sharing, impact on privacy and sunlight for neighbouring properties, location of carparking and topography.

The building footprint is an important component in regulating building bulk. Building bulk has a direct relationship to the character of areas, neighbouring amenity and private and public views.

The footprint control is primarily used to control the amount of a site to be covered by the principal building.

The footprint control only applies to development on land in the R2 Low Density Residential Zone and dwelling houses, semi-detached dwellings and dual occupancies in the R3 Medium Density Residential zone. The footprint control does not apply to land or development types where an FSR applies.

Footprint is defined in the revised Chapter B3 as:

Footprint is measured to include all the site area covered by buildings, where the building is 1.2m or more above existing ground level (refer figures 10 and 11), but excludes:

- uncovered external areas, such as terraces and decks that are less than 1.2m above the existing ground level existing ground level;
- garaging outside the building envelope where permitted;
- swimming pools less than 1.2m above existing ground level; and
- outbuildings.

Site coverage

Site coverage is a way of controlling the amount of a site covered by all buildings. By definition under the EPA Act buildings include part of a building and also any structure or part of a structure. This means that swimming pools, detached garages and a variety of outbuildings would be included as site coverage unless otherwise excluded.

The site coverage definition is provided in Woollahra LEP 2014. The LEP is based on the Standard Instrument, which is a statutory document. It is compulsory for LEPs to contain the definitions provided in the Standard Instrument.

Site coverage is defined in the Standard Instrument and Woollahra LEP 2014 as:

site coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- a) any basement,
- b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- c) any eaves,
- d) unenclosed balconies, decks, pergolas and the like.

The definition excludes certain elements of a building but includes swimming pools, detached garages and outbuildings. Notably, enclosed balconies are included as site coverage.

There are no site coverage controls in the Woollahra LEP 2014 or Woollahra DCP 2015. The presence of the site coverage definition in Woollahra LEP 2014 is solely attributable to the need to meet the compulsory definitions provided in the Standard Instrument.

Discussion

What the practitioners say

The practitioners oppose the footprint definition. In their submissions to the exhibited Draft B3 Chapter the practitioners said:

- The proposed amendment will result in the unintended and undesirable effect of minimising balconies, porches, overhangs, awnings, solar protection devices and the like to the detriment of good design outcomes, including environmental amenity and sustainability.
- The proposed amendment will encourage the maximisation of internal areas to the detriment of good design outcomes.

- Only those building elements which contain internal areas above ground level should be included in the definition of building footprint.
- The measurement of footprint should exclude the same building elements which are excluded from the definition of site coverage. (Basements would not need to be excluded because they do not contribute to bulk)
- The DCP currently contains adequate objectives and controls to protect the amenity of neighbouring properties and the public domain where building elements which are not included with the definition of building footprint may result in adverse amenity impacts.
- Considering the topography of the Municipality, much of which is steeply sloping, restricting the inclusion of terraces and decks to a height of 2m (sic) above existing ground level provides no consideration for site context, amenity, sustainability principles or exemplary design, and therefore, given previous comments, is both unreasonable, unnecessary, and undesirable.
[Comment: the height used in the definition is actually 1.2m]

Our response

The practitioners consider that the size of balconies, decks and similar external areas will be compromised because under the proposed footprint control these elements, depending on their height above ground level, are required to be within the footprint. Therefore, if internal living areas are maximised, the size of balconies and decks will need to be reduced. Conversely, if larger balconies and decks are proposed, internal floor space will need to be reduced.

This argument does not take into account the fact that footprint percentages contained in the draft controls reflect gross floor area yields which are based on researched approvals over recent years across the LGA. The footprint percentages also take into account balcony and deck sizes approved in the researched DAs. Therefore, the footprint percentages are intended to accommodate the internal floor areas and an amount of space which can be used for balconies, decks and the like.

Nevertheless, the practitioners are requesting that balconies, decks and other elements should be allowed outside the external boundary of the footprint on all levels of a building.

We have looked at the definition of site coverage as a way of addressing the practitioners' concerns. We have identified three options.

Option 1 – Replace the footprint definition with the definition for site coverage

We conclude that this is not an achievable outcome because:

1. The site coverage definition is inconsistent with the intent of the footprint.
2. The site coverage definition is not limited to the principal building. It takes in all buildings on a site and would include built elements such as swimming pools, outbuildings and detached garages.
3. The footprint is primarily related to the principal building and excludes outbuildings, detached garages and swimming pools not higher than 1.2m above ground level.
4. The footprint is located within the building envelope which is partly established by the setbacks from a site's boundaries.
5. Some built elements applicable under the site coverage definition would most likely be located outside the footprint and building envelope.
6. Footprint is a component of building envelope which addresses building bulk.

7. Site coverage, as defined in the LEP, has a broader application than footprint.
8. It is not possible to amend the definition of site coverage to be compatible with the building envelope approach in the DCP chapter because it is fixed as a compulsory definition under the Standard Instrument which applies to all LEPs in NSW.

Option 2 – Amend the footprint definition using exclusions from the site coverage definition and retain the footprint percentage

In this option the excluded elements could be located within or outside the footprint depending on the design. The footprint percentages set out in the draft DCP chapter are not altered. The limitation of 450mm for eaves outside the building envelope contained in the draft DCP chapter would be removed.

The definition for footprint based on option 2 is:

Footprint is measured to include all the site area covered by buildings, but excludes:

- basements
- eaves
- unenclosed balconies, awnings, decks, pergolas and the like.
- swimming pools
- detached garages and outbuildings.

We do not support this option because:

1. It is likely the footprint will be substantially or completely filled by internal floor areas.
2. Whilst the balconies, decks and similar elements would still need to be within the building envelope, the bulk of the building would be increased.
3. There are no numerical restrictions on the size of balconies, decks or similar elements. Therefore, they could potentially extend up to the inner edge of the building envelope resulting in buildings of significant bulk.
4. Objectives and controls to address streetscape character and mitigate view and amenity impacts arising from elements which extend outside the building footprint are not entirely sufficient to moderate the bulk of buildings.

Option 3 - Amend the footprint definition using exclusions from the site coverage definition, reduce the footprint percentages and include a maximum area for balconies, decks and the like

In this option the excluded elements could be located within or outside the footprint. However, the footprint percentages are reduced to factor in an area attributable to balconies, decks and other excluded elements. The limitation of 450mm for eaves contained in the draft DCP chapter would be removed.

The definition for footprint based on option 3 is:

Footprint is measured to include all the site area covered by buildings, but excludes:

- basements
- eaves
- unenclosed balconies, awnings, decks, pergolas and the like provided that they do not exceed X% of the site area (see comment below)
- swimming pools
- detached garages and outbuildings.

We do not support this option because:

1. It is essentially a variation of the proposed footprint approach, but is very prescriptive and adds complexity to the assessment process.
2. It may not be fully supported by the practitioners because it reduces the footprint percentage and limits the size of balconies, decks and the like.

It has not been possible in the time available to carry out case studies to determine the percentages for the reduced footprint and for the balconies, awnings, decks and the like.

Preferred approach

Our preferred approach is to retain the footprint concept as contained in the draft B3 Chapter for the following reasons:

1. It is an effective way to control bulk.
2. The footprint percentages have been calculated to include balconies, decks and the like.
3. It does not prescribe areas for indoor and outdoor space and therefore allows design flexibility.
4. It is simple to apply and assess.
5. It is part of an effective package of building envelope controls.

Recommendation

- A. That the overview of the Woollahra DCP 2015 Working Party meetings held on 2 March 2016, 21 April 2016 and 4 August 2016 is received and noted.
- B. That Council resolve to prepare and exhibit a draft development control plan to amend Chapter B3 General Development controls of the Woollahra Development Control Plan 2015.
- C. That the draft chapter as contained in Annexure 8 of the report to the Urban Planning Committee of 31 October 2016 be used for the purpose of preparing the draft DCP.
- D. That staff report on the submissions received during the public exhibition to a future meeting of the Urban Planning Committee.

Item No: R2 Recommendation to Council
Subject: **DRAFT STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017, AND ASSOCIATED DOCUMENTS**
Author: Jorge Alvarez, Senior Strategic Planner
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 17/32612
Reason for Report: To inform Council of the Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, and associated documents.
To obtain Council's endorsement of a draft submission on the Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities), and associated documents.

Recommendation:

- A. That the report on the Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities), and associated documents be received and noted.
- B. That the submission on the Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities), and associated documents as contained in Annexure 1 of the report to the Urban Planning Committee meeting on 27 March 2017 be forwarded to the Department of Planning and Environment.

1. Background

The Department of Planning and Environment (the Department) is currently exhibiting a suite of documents, collectively referred to as the *Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (the Draft SEPP). The exhibition period concludes on 7 April 2017.

The stated aim of the suite of documents is to:

- simplify and standardise planning approval pathways for educational establishments and child care facilities (including allowing certain development as exempt and complying development);
- establish consistent State-wide assessment requirements and controls for educational establishments and child care facilities; and
- align the National Quality Framework for Early Childhood Education and Care Facilities with the NSW planning system.

2. NSW Context

The Explanation of Intended Effects explains the need for additional educational establishments and child care facilities in terms of demand and supply.

From a demand perspective, the document states that NSW is facing unprecedented growth with the population forecast to increase by 28% to almost ten million by 2036. The number of children under five will climb 18% to over 600,000, and the total population under 15 years of age will grow by 23% to more than 1.8 million. This growth is placing increasing pressure on our social infrastructure, including child care facilities and all levels of the education system.

Many families face difficulties in finding suitable child care arrangements, with access to long day care facilities being limited and costly. The Productivity Commission has estimated that approximately 165,000 parents in NSW would work, or would like to work, more hours if they could access suitable, affordable child care. It is estimated that an additional 2,700 long day care centres would be required by 2036 in order to address shortages and meet projected demand. NSW schools are also under increasing pressure with an estimated 172,000 new students entering the public school system by 2031. To meet this demand will require 15 new schools a year, and the refurbishment or replacement of a further one-third of school assets that will be in poor condition by 2031. This demand is expected to be met by both the public and private sectors.

3. Woollahra context

The Woollahra Local Government Area (LGA) accommodates twenty-one schools and twenty-eight child care facilities, as categorised in the table below.

Table 1: Existing Schools and Child Care Facilities in the Woollahra LGA

Schools	Primary	Secondary	Child Care	Preschool	Long day care
Government	6	Nil	Community based	2	5
Non-government	9	6	Private	3	18
Total = 21	15	6	Total = 28	5	23

The majority of schools and child care facilities are provided by the private sector. Fifteen of the twenty-one schools are non-government (approximately 70%), and twenty-one of the twenty-eight childcare centres are private (75%).

The majority of schools and child care facilities are provided by the private sector. Fifteen of the twenty-one schools are non-government (approximately 70%), and twenty-one of the twenty-eight childcare centres are private (75%). These schools are relatively large and dominant land uses within the LGA. These schools include:

- Ascham School, Edgecliff
- Cranbrook School, Bellevue Hill
- Sydney Grammar - Edgecliff Preparatory School, Paddington
- Holy Cross, Woollahra
- Kambala, Rose Bay
- Kincoppal Rose Bay
- McAuley Primary School Rose Bay
- Reddam House, Woollahra
- The Scots College, Bellevue Hill

Twenty of the twenty-one schools in the LGA are located on land zoned SP2 Infrastructure by *Woollahra Local Environmental Plan 2014* (WLEP). Also, twenty of the twenty-one schools adjoin land zoned:

- R2 Low Density Residential
- R3 Medium Density Residential
- RE1 Public Recreation
- RE2 Private Recreation

Schools have a major impact on traffic congestion and car parking in the LGA. A high proportion of parents drive their children to school and senior high school students regularly drive to school and park in local streets.

The LGA has a considerable amount of hills, ridgelines and steeply sloping land. Due to its orientation and extensive exposure to Sydney Harbour, a significant proportion of private and public land is fortunate to enjoy iconic views to the Sydney Opera House, Harbour Bridge, Sydney CBD skyline and views to the harbour, the lower north shore and the Sydney Harbour heads. Therefore, maintaining views and promoting view sharing are significant planning and amenity issues for Council.

As there are no University or TAFE campuses located within the LGA, no comments have been provided for the sections of the Draft SEPP related to development on associated with these land uses.

4. Issues identified as relevant to Woollahra

Council staff acknowledge the need to provide additional education establishments and childcare centres for a growing population. However, we believe this infrastructure should be developed in a well-planned manner with appropriate merit assessment, and that there are shortcomings in the planning and assessment framework proposed by the Draft SEPP and associated documents.

The main changes proposed to the planning and assessment framework for development of educational and child care sector includes the following:

- Proposal of new legislation, the Draft SEPP. The SEPP will broaden the scope of development without consent carried out by both existing and new public authorities such as the Department of Education (DoE), and newly prescribed Registered Non-government Schools (RNSs). The SEPP will also broaden the scope of complying development. The DoE is currently permitted to self-assess and carry out certain “minor” work as development without consent under the provisions of the *State Environmental Planning Policy (Infrastructure) 2007* (the Infrastructure SEPP).
- A proposed amendment to the Infrastructure SEPP. The planning controls for schools currently exist in Division 3 of the Infrastructure SEPP. These provisions will be repealed from the Infrastructure SEPP and transferred into the proposed SEPP.
- Registered Non-government schools to be prescribed as public authorities. The *Draft Environmental Planning and Assessment Amendment (Schools) Regulation 2017* (the Draft Regulation) will prescribe RNSs as public authorities, providing them with the opportunity to self-assess the environmental impact of certain “minor” development on existing school sites, and carry out this development.
- An existing school may increase student and staff numbers by up to 10% of the numbers at a school during the previous 12 months. This can be done in association with a development without consent proposal.

- The development of buildings on existing school sites as complying development to a maximum height of 4 storeys and 22m. This is a significant increase from the maximum of 12m permitted in the Infrastructure SEPP.
- A requirement for RNSs to consult the RMS to assess the traffic impacts of complying schools development prior to the lodgement of an application for a complying development certificate (CDC), and to require complying schools development proposals to be verified by designers before a CDC can be issued.
- An optional requirement for public authorities such as the DoE and RNSs to consult with other public agencies and councils for certain types of works.
- A Draft “NSW Code of Practice for Part 5 Activities: for registered non-government schools” (Draft Code of Practice) that will apply to RNSs when assessing and carrying out development without consent under the Draft SEPP.
- Amendments to other related planning instruments, including:
 - State Environmental Planning Policy (State and Regional Development) 2011;
 - State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP); and
 - minor amendments relating to definition of child care facilities in the Standard Instrument Local Environmental Plan and consequently local environmental plans.

5. Concerns and comments

Council staff have concerns about the scope of the new planning and assessment framework proposed by the Department. A summary of the main concerns of Council staff is listed below. Greater detail is provided in the draft submission.

1. We do not support the expanded provisions for development without consent and complying development for the following reasons:
 - The Draft SEPP will override the refined and context-based planning provisions for educational facilities and child care centres contained in WLEP and the *Woollahra Development Control Plan 2015* with a “one size fits all” approach.
 - The Draft SEPP and design guide will not address the existing or desired future character of any area to which they apply, creating a generic built form that does not respond to local character or conditions.
2. The Draft SEPP
 - Non-government schools as public authorities
Registered non-government schools will be prescribed as public authorities to enable them to carry out these developments without consent using the same process as currently used by public schools.

Comment

We do not support the assessment and approval of development without consent on schools, by non-government schools as the assessment will not be independent and there is no proposed mechanism to ensure that the non-government schools are held accountable for the accuracy of their assessment. Therefore, we recommend that this amendment not be approved.

- **Consultation and notification**
Clauses 8-12 of the Draft SEPP require consultation with councils and other public authorities for development without consent carried out by or on behalf of public authorities. In the case of consultation with councils, this only relates to development which may impact on council-related infrastructure or services (namely stormwater, traffic, pedestrian, sewerage, water supply and excavation management) or development which relates to local heritage items and heritage conservation areas. While we support consultation between public authorities and councils, the consultation required by these clauses is not mandatory.

Comment

We recommend a mandatory requirement for public authorities (DoE or RNS) to consult with councils regarding the potential impact of development without consent in regard to issues such as building height, bulk, scale and privacy, and particularly issues which can only be determined by merit assessment, such as the impacts on view sharing and desired future character. We also recommend that the Department consider the wording of terminology of “public authorities” within the Draft SEPP to avoid confusion and ambiguity in interpretation of the document.

- **Increase in student and staff numbers by up to 10%**
Clause 30 of the Draft SEPP will permit certain development without consent on existing school sites to include an increase of students and staff numbers by up to 10% “compared with the average of each of those numbers for the 12-month period immediately before the commencement of the development”.

Comment

We do not support this provision. We recommend that reference to an increase in student and staff numbers in subclause 30(2)(b) be removed. Our submission provides further detail on this matter.

- **Maximum building height**
Schedule 2, clause 2 of the Draft SEPP will permit building height for schools as complying development to a maximum of 4 storeys and 22m. This is a significant increase from the maximum of 12m permitted in the *State Environmental Planning Policy (Infrastructure) 2007* (the Infrastructure SEPP).

Comment

We do not support a maximum building height of 4 storeys and 22m as complying development, particularly in low density residential areas. A 22m control for development other than schools, such as residential or mixed use, is approximately the equivalent of a 5-6 storey building. The maximum height control in R2 Low Density Residential zone in the WLEP 2014 is generally 9.5m.

As complying development, a building of this height would not require a full assessment process for amenity issues such as view loss / sharing, visual impact, bulk and scale, and desired future character. These issues would be exacerbated on areas with steeply sloping terrain such as the Woollahra LGA. We therefore recommend that a maximum building height of 12m be maintained for complying development on schools, as is currently permitted by the Infrastructure SEPP.

- **View sharing**
Neither the Draft SEPP nor the Draft Code of Practice include a consideration of the impact of new educational development on views and view sharing. Therefore, there is no mechanism available for a merit assessment based on view sharing principles which have been established by the Land and Environment Court in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.

Comment

We recommend that a maximum building height of 12m be maintained for complying development on schools, as is currently permitted by the Infrastructure SEPP.

- **Development adjoining heritage items and within heritage conservation areas**
Schedule 2, clause 3 of the Draft SEPP will permit complying development for schools up to 1m from a side or rear boundary which adjoins land which may contain a heritage item or land which is within a heritage conservation area. This type of development may not be appropriate in terms of impacts on the heritage item or a heritage conservation area.

Comment

We recommend that development adjoining heritage items or within heritage conservation areas not be permitted as complying development.

- **Site compatibility certificates and additional uses of State land**
Clauses 13 and 14 of the Draft SEPP will permit the issuing of site compatibility certificates and the development of additional uses on prescribed State land (such as schools) for the purposes permitted with or without consent on adjacent land with a different zone. This will permit the development of a wide range of additional land uses on State land without the need to undertake the rigorous assessment and justification currently required by the planning proposal process. The provisions have the potential to permit the development of uses on existing educational establishment sites (such as schools) which are not desirable or acceptable to the local community.

Comment

We do not support clauses 13 and 14 of the Draft SEPP. The provisions will weaken the local land use zoning provisions of LEPs, by permitting a proliferation of additional land uses on existing educational establishment sites undermining community confidence in, and transparency of, the existing zoning system. Clause 5.3 of the Standard Instrument provides similar provisions. However, this clause is optional for adoption by councils. Woollahra Council chose not to adopt this standard when endorsing the WLEP. We maintain our opposition to this planning concept. We recommend that clauses 13 and 14 be removed from the Draft SEPP.

3. **The Draft Regulation**

- **Non-government schools as public authorities**
Subclause 277 (6) of the Draft Regulation will prescribe RNSs as public authorities to enable them to carry out development without consent using the same process as currently used by the DoE for public schools.

Comment

We do not support this subclause. The subclause will permit RNSs to assess and carry out certain works without development consent on existing school sites. As mentioned previously, the assessment process for development without consent will not be independent and the auditing mechanism for ensuring that RNSs are held accountable for the accuracy will only be independent if it is undertaken by the DoE, or another independent authority. Therefore, we recommend that this amendment not be approved.

- Design verification statements

Clause 129AA of the Draft Regulation states a certifying authority must not issue a complying development certificate for school developments 12m in height or greater, unless they have been provided with a written statement a qualified designer (a person registered as an architect in accordance with the *Architects Act 2003*), verifying that the design quality principles in the Draft SEPP have been achieved.

Comment

We are concerned that these written statements (design verification statements) will not provide a rigorous assessment of the design quality principles and will not be independently prepared and assessed. We recommend the establishment of an independent third party certification or registration system for practitioners who would be permitted to either prepare independently assessed design verification statements, or confirm the accuracy of design verification statements prepared by designers.

4. The Draft Design Guide.

We generally support the principles, guidance and evaluation process described in the Draft Design Guide. However, the document provides only a generalised conceptual overview for school design, rather than the detailed design specifications outlined in a guideline document, such as the Draft Child Care Planning Guideline.

Comment

We recommend that the Draft Design Guide be enhanced with detailed design guidance provided by a range of professional school designers from both the public and private sectors. This would allow the guide to serve as a tool for school designers and public authorities in the design and assessment phases for both development with consent and development without consent.

5. Draft “Child Care Planning Guideline”.

We generally support the early childhood education and care facilities development controls of the Draft SEPP and the Draft Child Care Planning Guideline. The controls and guideline are generally consistent with the controls in the WLEP and *Woollahra Development Control Plan 2015* (WDCP), Part F1 – Child Care Centres.

6. The Draft Code of Practice

The Draft Code of Practice has been developed to regulate how RNSs carry out the environmental assessment and determination of activities permitted without consent by the Draft SEPP. The document outlines the assessment and documentation requirements, and requirements for community consultation. Compliance with the mandatory requirements in the document will be a requirement under the EP&A Act and EP&A Regulation, and the Department may undertake compliance action regarding certain breaches of the Draft Code of Practice.

Comment

As stated previously, we do support prescribing RNSs as public authorities to enable them to carry out development without consent on existing schools. We also do not support the current provisions of the Infrastructure SEPP which permit the DoE to carry out development without consent on existing for public schools.

We are also concerned with, and recommend solutions for, a number of shortcomings in the details of the Draft Code of Practice, including:

- the independence and accountability for the accuracy of assessment and the auditing process;
- the classification of alterations and additions to school buildings and structures as minor work;
- the establishment of a registration or certification system for individuals permitted to undertake development proposals and design verification statements; and
- the requirement of mandatory consultation certain development.

7. The Draft Planning Circular

Under the Draft SEPP, development undertaken as complying development and development without consent cannot contravene any existing conditions on development consents relating to student or staff numbers that apply to the land within the boundaries of an existing school. The Draft Planning Circular advises consent authorities that development consent conditions which cap student and staff numbers (cap conditions) should recognise the need for flexibility in enrolment numbers at both public and non-government schools. Further, it advises that if cap conditions are required, they should only be applied in circumstances justified by a comprehensive and evidence-based assessment of relevant planning issues such as traffic and parking.

Comment

We acknowledge that cap conditions should be evidence based. However, we are also aware that prescriptive conditions are easier to enforce and understand, and potentially easier to comply compared with outcome based conditions. As a result, prescriptive conditions provide greater certainty to surrounding residents in terms of safeguarding their amenity from the impacts of noise, minimising traffic and parking impacts, and addressing issues with operational management.

6. Further steps

Following the exhibition period the Department will review all submissions and approve, amend or not approve the new and amended planning documents.

7. Conclusion

The Draft SEPP and associated documents are a suite of documents compiled by the Department aimed to fast track the provision of educational establishments and child care facilities across NSW. The documents propose a number of significant changes to the planning and assessment framework for educational establishments and child care facilities.

Council staff acknowledge the need for the development of additional educational and child care facilities. However, we have concerns about the scope of the new planning and assessment framework which is being considered by the Department. These concerns relate to the potential scale of development which will be permitted without council consent, the related environmental and amenity impacts, and the lack of independence in assessment and accountability of this development. Our concerns, as well as recommendations for improvement or alternatives provisions, have been compiled into a document which is recommended for adoption as Council's submission to the public exhibition.

Annexures

1. Submission to Public Exhibition - Educational Establishments and Childcare SEPP - 03-2017 [↓](#)

Woollahra Council Submission - Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, and associated documents

Woollahra Council welcomes the opportunity to comment on the exhibition of the *Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (the Draft SEPP) and associated documents. Our submission to the exhibition is attached.

Background

The Department of Planning and Environment (the Department) has prepared Draft planning legislation and guidelines to assist education providers when planning and designing education and child care facilities. These documents apply to child care facilities, schools, TAFEs and universities across NSW. The stated aims of these documents are to:

- Simplify and standardise planning approval pathways for educational establishments and child care facilities (including allowing certain development as exempt and complying development);
- Establish consistent State-wide assessment requirements and controls for educational establishments and child care facilities; and
- Align the National Quality Framework for Early Childhood Education and Care Facilities with the NSW planning system.

The Woollahra Local Government Area (LGA) accommodates twenty-one schools and twenty-eight child care facilities, as categorised in the table below.

Table 1: Existing Schools and Child Care Facilities in the Woollahra LGA

Schools	Primary	Secondary	Child Care	Preschool	Long day care
Government	6	Nil	Community based	2	5
Non-government	9	6	Private	3	18
Total = 21	15	6	Total = 28	5	23

The majority of schools and child care facilities are provided by the private sector. Fifteen of the twenty-one schools are non-government (approximately 70%), and twenty-one of the twenty-eight childcare centres are private (75%). The majority of these schools are relatively large and dominant land uses within our relatively small LGA (12 km²). These large schools have large student and staff numbers, substantial land holdings which include recreational and sporting facilities that are used on weekdays, weekends and during school holidays. These schools include:

- Ascham School, Edgecliff
- Cranbrook School, Bellevue Hill
- Sydney Grammar - Edgecliff Preparatory School, Paddington
- Holy Cross, Woollahra
- Kambala Rose Bay
- Kincoppal Rose Bay
- McAuley Primary School Rose Bay
- Reddam House, Woollahra
- The Scots College, Bellevue Hill

Twenty of the twenty-one schools in the LGA are located on land zoned SP2 Infrastructure under *Woollahra Local Environmental Plan 2014* (WLEP). Also, twenty of the twenty-one schools adjoin land within one or more of the following zones:

- R2 Low Density Residential
- R3 Medium Density Residential
- RE1 Public Recreation
- RE2 Private Recreation

Schools have a major impact on traffic congestion and car parking in the LGA. A high proportion of parents drive their children to school and senior high school students regularly drive to school and park in local streets.

The LGA has a considerable amount of hills, ridgelines and steeply sloping land. Due to its orientation and extensive exposure to Sydney Harbour, a significant proportion of private and public land is fortunate to enjoy iconic views to the Sydney Opera House, Harbour Bridge, Sydney CBD skyline and views to the harbour, the lower north shore and the Sydney Harbour heads. Therefore, maintaining views and promoting view sharing are a significant planning and amenity issues for Council.

As there are no University or TAFE campuses located within the LGA. No comments have been provided for the sections of the Draft SEPP related to development associated with these land uses.

Woollahra Council comments about the Draft SEPP and associated documents

Council acknowledges the need to provide additional education establishments and childcare centres for a growing population. However, we believe this infrastructure should be developed in a well planned manner with appropriate merit assessment. We submit that there are shortcomings in the planning and assessment framework proposed by the Draft SEPP and associated documents. Our concerns are provided below.

1. General comments about the Draft SEPP

1.1 We generally do not support expanding the scope of development permitted as development without consent and complying development for schools for the following reasons:

- The Draft SEPP will override the refined and context based planning provisions for educational facilities and child care centres contained in the WLEP and the *Woollahra Development Control Plan 2015* (WDCP) with a “one size fits all” approach.
- The Draft SEPP and Draft “Better Schools: A design guide for schools in NSW” (the Draft Design Guide) will not address the existing or desired future character of areas within the Woollahra LGA, creating a generic built form that does not respond to local character or conditions.

2. The Draft SEPP

2.1 Development without consent on schools, non-government schools as public authorities

The Draft SEPP will permit certain development without consent from a consent authority on existing school sites. However, the person carrying out the development will need to undertake an environmental assessment of the likely impacts of the proposed activity in accordance with Part 5 of the *Environmental Planning and Assessment Act 1979*.

Registered non-government schools (RNS) will be prescribed as public authorities to enable them to carry out these developments without consent using the same process currently carried out by the Department of Education (DoE) for public schools. The *Draft Environmental Planning and Assessment Amendment (Schools) Regulation 2017* (the Draft Regulation) is proposed to prescribe RNSs as public authorities for this purpose.

We do not support this proposal. Despite the guidance of the Draft “NSW Code of Practice for Part 5 Activities: For registered non-government schools” (the Draft Code of Practice), RNSs will act in conflicting roles. They are the developer, they appoint the person to assess the development proposal and they determine the proposal. There is a lack of independence in this process. Additionally, there is no proposed mechanism to ensure that the RNSs are held accountable for the accuracy of the assessment. The auditing process of RNS compliance described in section 6.3 of the Draft Code of Practice is not mandatory and is also permitted by “a suitably qualified person”, whose credentials and experience are not defined. A more detailed description of our concerns with the associated Draft Code of Practice is included point 6 of this submission, below.

2.2 Consultation and notification

Clauses 8-12 of the Draft SEPP require consultation with councils and other public authorities for development without consent carried out by or on behalf of public

authorities. In the case of consultation with councils, this only relates to development which may impact on council-related infrastructure or services (namely stormwater, traffic, pedestrian, sewerage, water supply and excavation management) or local heritage items and heritage conservation areas.

We support consultation between public authorities and councils, and note that the consultation possible under these clauses is not mandatory. The public authority is only required to consult with council if, in their opinion, the development will have an impact on a narrow range of infrastructure or heritage items and heritage conservation areas.

Additionally, the wording of these clauses is confusing and ambiguous. The term “public authorities” is used to describe both the proposed developer of education facilities and child care facilities, such as an RNS or the DoE, as well as the governing bodies or agencies for particular types of development, such as the Office of Environment and Heritage or Roads and Maritimes Services. For example sub-clause 12 (1) (c) states:

- (1) Clauses 8–11 do not apply with respect to development to the extent that: ...
 - (c) they would require notice to be given to a council or public authority that is carrying out the development or on whose behalf it is being carried out ...

In this subclause it is unclear under what circumstances notice is required to be given and to whom and which public authority is carrying out development and for whom.

We recommend a mandatory requirement for public authorities (DoE or RNS) to consult with councils regarding the potential impact of development without consent in regard to issues such as building height, bulk, scale and privacy, and particularly issues which can only be determined by merit assessment, such as the impacts on view sharing and desired future character. This level of consultation would foster communication and co-operation between public authorities and councils, provide the public authority with valuable local experience about environmental conditions and community expectations, and assist in providing well planned development on existing school sites.

We also recommend that the Department clarify the term “public authorities” to avoid confusion and ambiguity in interpretation of the document.

2.3 Increase student and staff numbers by up to 10% as development without consent

Clause 30 of the Draft SEPP will permit certain development without consent on existing school sites. This development is described in the “State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017: Explanation of Intended Effects” (Explanation of Intended Effects) as “small scale” and “minor”. However, it will permit development that will allow an increase in students and staff numbers at existing schools by up to 10% “compared with the average of each of those numbers for the 12-month period immediately before the commencement of the development”.

We note that subclause 30(3) specifies that an approval under this clause cannot contravene an existing condition of a development consent that applies to any part of the school, relating to student or staff numbers. We support this provision.

However, we do not support subclause 30(2)(b). In the case where an existing school does not have a student cap as a condition of development consent, the school would potentially be permitted to increase its student and staff numbers by 10% each year. Our experience is that schools can have substantial impacts on surrounding areas. Where they are located in residential precincts, with narrow streets, a lack of on-street car parking and poor public transport services, there can be significant impacts on residential amenity and road infrastructure. These impacts need to be assessed thoroughly by an independent authority with community input. The development without consent process under clause 30 does not allow this rigorous process.

We recommend that reference to an increase in student and staff numbers in subclause 30(2)(b) be removed.

With regard to setting student and staff caps through development consents, we note the Draft "Regulating expansion of schools" Planning Circular on student caps (the Draft Planning Circular) exhibited with the Draft SEPP. We provide comments on the circular in section 7 of our submission.

2.4 Notification of development without consent

Clause 31 of the Draft SEPP requires a public authority, or its representative, to notify the relevant council and occupiers of adjoining land of its intention to carry out development, before development is carried out. Consideration must be given to the responses to the notice that is received within 21 days.

While we support consultation between public authorities, councils and the community, we are concerned about the wording of clause 31. The clause states that notification is required "before development to which this clause applies is carried out", rather than before development is assessed under the Part 5 process and the Draft Code of Practice. Therefore, the wording could be interpreted to mean that notice is given after the assessment is complete, but prior to the commencement of works. In this case, any allowance for interested parties to make a submission, as contemplated in subclause 31(2)(b) is of no value because the assessment has already been undertaken, and an approval has been issued.

We recommend that subclause 31(2) be reworded to confirm that the notification process for this type of development occurs prior to the completion of the assessment process.

The current wording of the Draft subclause is:

- (2) Before development to which this clause applies is carried out, the proponent of the development must:

We recommend it be amended to read:

- (2) Before the assessment and determination of an application for the development to which this clause applies is carried out, the proponent of the development must:

2.5 Building height definition

The definition of building height for schools as complying development relies on ground level (mean) and ground level (finished), rather than the more commonly used ground level (existing).

The Standard Instrument definitions of ground level are:

ground level (existing) means the existing level of a site at any point.

ground level (finished) means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.

ground level (mean) means, for any site on which a building is situated or proposed, one half of the sum of the highest and lowest levels at ground level (finished) of the outer surface of the external walls of the building.

We do not support the use of ground level (mean) and ground level (finished), rather than the more commonly used ground level (existing) as the basis for building height for complying development on schools. These ground level definitions are ambiguous, confusing and complex.

For example, ground level (finished) relates to the “ground surface after completion of any earthworks” or “that is exempt development”. However, if no earthworks or exempt development have been completed on a site, the definition does not apply and consequently building height cannot be determined.

Therefore, we recommend the use of ground level (existing) as the basis for building height calculations for complying development on schools. However, if the ground level (mean) and ground level (finished) definitions are retained, we recommend that a diagram or diagrams be included to assist with determining ground levels and building height.

2.6 Maximum building height

Schedule 2, clause 2 of the Draft SEPP will permit building height for schools as complying development to maximum of 4 storeys and 22m. This is a significant increase from the maximum of 12m permitted in the *State Environmental Planning Policy (Infrastructure) 2007* (the Infrastructure SEPP).

We do not support a maximum building height of 4 storeys and 22m as complying development, particularly in low density residential areas. The maximum height control in R2 Low Density Residential zone in the WLEP 2014 is generally 9.5m. This height control is aimed at restricting development to 2 storeys with a pitched or angled roof. A 22m control for development such as residential or mixed use, is approximately equivalent to a 5-6 storey building.

The Draft SEPP would permit development more than double the height of any development in the R2 zone, and as complying development, it would not require a full assessment process for amenity issues such as view loss / sharing, visual impact, bulk and scale and desired future character. These issues are more sensitive in areas with steeply sloping terrain such as the Woollahra LGA.

We therefore recommend that a maximum building height of 12m be maintained for complying development on schools, as is currently permitted by the Infrastructure SEPP.

2.7 View sharing

Neither the Draft SEPP nor the Draft Code of Practice include a consideration of the impact of new educational development on views and view sharing. Therefore, there is no mechanism available for a merit assessment based on view sharing principles which have been established by the Land and Environment Court in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.

The issue of views and view sharing is particularly relevant in the Woollahra LGA which is located on Sydney Harbour and characterised by sloping land which provides iconic and significant public and private views to residents. In light of this context, we are extremely concerned that educational development will be permitted as complying development or development without consent, without a full assessment of view impacts. An increased potential for view impacts is likely due to the maximum building heights of 22m applicable to complying development. View impacts require merit assessment and cannot be codified. Therefore, we object to the permissibility of complying development to a maximum building height of 22m.

We recommend that a maximum building height of 12m be maintained for complying development on schools, as is currently permitted by the Infrastructure SEPP.

2.8 Development adjoining heritage items and within heritage conservation areas

Schedule 2, clause 3 of the Draft SEPP will permit complying development for schools up to 1m from a side or rear boundary which adjoins land which may contain a heritage item or land which is within a heritage conservation area. This type of development may not be appropriate in terms of impacts on the heritage item or a heritage conservation area. Although the Draft Better Schools Design Guide and Draft Environmental Code of Practice makes a minor reference to a consideration of heritage impact in Principle 1 – context, built form and landscape, it is not specific as to how to assess this impact.

We recommend that development adjoining heritage items or within heritage conservation areas not be permitted as complying development.

2.9 Flood control lots

Schedule 2 clause 12 of the Draft SEPP includes the following definition of flood control lot:

flood control lot means a lot to which flood related development controls apply in respect of development for the purposes of industrial buildings, commercial premises, dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (other than development for the purposes of group homes or seniors housing).

This definition does not apply to land zoned SP2 Infrastructure in the WLEP, as none of the development types listed in the definition are permissible within the zone.

Consequently, no consideration of the controls of clause 12 will apply for complying development for schools and school-based child care on existing school sites zoned SP2 Infrastructure (Clauses 33 (3) and 34 (2) (e)).

We recommend the inclusion of a new subclause in Schedule 2 clause 12 (1), with wording to specify that the clause applies “to all development that is carried out on a lot within a Flood Planning Area of a relevant local environmental plan”. This will enable the consideration of the controls of clause 12 to school sites in the SP2 Infrastructure zone.

2.10 Site compatibility certificates and additional uses of State land

Clauses 13 and 14 of the Draft SEPP will permit the issuing of site compatibility certificates and the development of additional uses on prescribed State land (such as schools) for the purposes permitted with or without consent on adjacent land with a different zone. This will permit the development of a wide range of additional land uses on State land without the need to undertake the rigorous assessment and justification currently required by the planning proposal process.

The provisions have the potential to permit uses on existing educational establishment sites (such as schools) which are not desirable or acceptable to the local community. While site compatibility certificates may be expedient for the purpose of allowing additional uses, the process does not allow for the rigour of a planning proposal, which would normally include community consultation.

We do not support clauses 13 and 14 of the Draft SEPP. The provisions will weaken the local land use zoning provisions of the LEPs, by permitting a proliferation of additional land uses on existing educational establishment sites undermining community confidence in, and transparency of, the existing zoning system. Clause 5.3 of the Standard Instrument provides a development standard with a similar objective. However, this clause is optional for adoption by individual councils. Woollahra Council chose not to adopt this standard when endorsing the WLEP. We maintain our opposition to this planning concept.

We recommend that clauses 13 and 14 be removed from the Draft SEPP.

3. The Draft Regulation.

3.1 Non-government schools as public authorities

Subclause 277 (6) of the Draft Regulation will prescribe RNSs as public authorities to enable them to carry out development without consent using the same process as currently used by the DoE for public schools. We do not support this clause. The clause will permit RNSs to propose, approve and carry out certain works without development consent on existing school sites. As mentioned previously, the assessment process for development without consent will not be independent. The auditing mechanism for ensuring that RNSs are held accountable for the accuracy will only be independent if it is undertaken by the DoE, or another independent authority.

Therefore, we recommend that this clause not be approved. Should the Department retain the proposed clause, we maintain our recommendations which seek a rigorous and independent assessment and approval process for development without consent and an independent monitoring process of assessors and approvals.

3.2 Design verification statements

Clause 129AA of the Draft Regulation states a certifying authority must not issue a complying development certificate for school developments 12m in height or greater, unless they have been provided with a written statement a qualified designer (a person registered as an architect in accordance with the *Architects Act 2003*), verifying that the design quality principles in the Draft SEPP have been achieved.

We are concerned that these written statements (design verification statements) will not provide a rigorous assessment of the design quality principles for the following reasons:

- The designer of the development is able to assess the merits of their own design. In these cases, the design verification statements will not provide an independent assessment of the design quality principles.
- There is no proposed mechanism to ensure that designers are held accountable for the accuracy of their statements. The certifier will only be required to check that the statement has been provided, and not test its accuracy and quality.

We recommend the establishment of an independent third party certification or registration system for practitioners who would be permitted to either prepare independently assessed design verification statements, or confirm the accuracy of design verification statements prepared by designers. At the very least we recommend that qualified designers be prohibited from providing design verification statements for their own designs.

4. The Draft Design Guide.

- 4.1 We generally support the principles, guidance and evaluation process described in the Draft Design Guide. However, the document provides only a generalised conceptual overview for school design, rather than the detailed design specifications outlined in a guideline document, such as the Draft Child Care Planning Guideline.

We recommend that the Draft Design Guide be enhanced with detailed design guidance provided by a range of professional school designers from both the public and private sectors. This would allow the guide to serve as a tool for school designers and public authorities in the design and assessment phases for both development with consent and development without consent.

5. Draft “Child Care Planning Guideline”.

- 5.1 We generally support the early childhood education and care facilities development controls of the Draft SEPP and the Draft Child Care Planning Guideline. The controls and guideline are generally consistent with the controls in the WLEP and *Woollahra Development Control Plan 2015* (WDCP), Part F1 – Child Care Centres.

6. The Draft Code of Practice

- 6.1 As stated previously, we do support prescribing RNSs as public authorities to enable them to carry out development without consent on existing schools. We also do not support the current provisions of the Infrastructure SEPP which permit the DoE to carry out development without consent on existing for public schools.

Despite these objections, we generally support the provisions described in the Draft Code of Practice as a starting point for a codified method of assessing and carrying out development without consent. However, we have the following concerns with the Draft Code of Practice:

- Permitting RNSs and the DoE to assess the merits of their development and grant approvals raises questions about the independence of the process.
- There is no proposed mechanism to ensure that an RNS and the DoE are held accountable for assessment and approval of their works.
- Section 3.2.1 refers to Class 1 works requiring a Review of Environmental Factors. These works are placed into two categories:
 - Minor School Development Works, and
 - Other School Development Works.

“Minor School Development Works” include minor alterations and additions to school buildings and structures, internal works, fitouts, accessibility works, restoration and maintenance and repair works. These works are described requiring a less detailed assessment. There is no definition or guidance provided for the term “minor” or “less detailed”. This needs to be clarified.

“Other School Development Works” include construction, operation or maintenance of school buildings that are close to residential boundaries, within bushfire zones, and demolition works. These works are described as requiring “a more detailed assessment”.

- Section 3.3.2 requires the assessment of any “proposed activity” to be prepared by “a person suitably qualified in environmental impact assessment”. However, no definition of a “suitably qualified” person is provided.
- Section 3.3.3 outlines a mandatory consultation requirement for Class 1 Other School Development. RNSs must consult with those Government agencies (including councils) and neighbours that the RNS “considers relevant” thereby making it a discretionary requirement. No guidance is provided in this regard.
- Section 6.3 states that the auditing of RNS compliance with the Draft Code of Practice may be conducted by “a suitably qualified person”. However, no definition of a “suitably qualified person” is provided. The circumstances in which an audit may be required should also be spelt out. This could include situations where there is sustained council and community concern about processes and outcomes.

6.2 We recommend that:

- RNSs and the DoE be required to engage an qualified independent person to assess the merits of their development and grant approvals. This recommendation should be accompanied by a registration or certification system for suitably qualified individuals.
- The auditing process of the accuracy of RNS and DoE compliance with the Draft Code be undertaken by an independent person. This recommendation should be accompanied by a registration or certification system for suitably qualified individuals.
- Section 3.2.1 be amended to classify alterations and additions to school buildings and structures as “Other School Development Works”, to allow a more detailed assessment of the impact of this development.
- Section 3.3.2 be amended to include a definition of “a person suitably qualified in environmental impact assessment”. This recommendation should be accompanied by a registration or certification system for suitably qualified individuals.
- Section 3.3.3 be amended to require mandatory consultation for Class 1 “Other School Development” irrespective of whether the RNS considers notification to be relevant. This amendment should be accompanied by guidance as to extent of consultation with neighbours, such as a proximity radius or the like.
- Section 6.3 be amended to either require all auditing of RNS compliance with the Draft Code of Practice to be conducted by the DoE, or include a definition of “a suitably qualified person”. This recommendation should be accompanied by a registration or certification system for suitably qualified individuals.

7. The Draft Planning Circular

7.1 Under the Draft SEPP, development undertaken as complying development and development without consent cannot contravene any existing conditions on development consents relating to student or staff numbers that apply to the land within the boundaries of an existing school. The Draft Planning Circular advises consent authorities that development consent conditions which cap student and staff numbers (cap conditions) should recognise the need for flexibility in enrolment numbers at both public and non-government schools. Further, it advises that if cap conditions are required, they should only be applied in circumstances justified by a comprehensive and evidence-based assessment of relevant planning issues such as traffic and parking.

7.2 We have the following comments and concerns with the principles of the Draft Planning Circular:

- Principle 1: Apply outcome based consent conditions
 - The principle will be difficult to administer and enforce as councils may not be aware when enrolment fluctuations occur.
 - A prescriptive cap is a mechanism which enables councils to assess and measure the impacts associated with student and staff numbers, whereas an outcome based condition is open to interpretation and influenced by other external factors.
 - An outcome based condition, unlike a prescriptive student cap, does not provide certainty to surrounding residents in terms of safeguarding their amenity from the impacts of noise, minimising traffic and parking impacts, and addressing issues with operational management.

- Principle 2: Caps should be evidence based
 - We generally support this principle.
 - We note that the evidence must be based on both existing and maximum student capacity.

- Principle 3: Mitigate impacts directly
 - Caps are an appropriate mechanism to regulate the impacts associated with school development.
 - We do not support the use of conditions requiring other measures to mitigate the impacts of school development, as they may not provide the certainty of outcomes which can be achieved by a cap condition.

- Principle 4: Flexibility required for school developments
 - We support the concept of flexibility, but consider that it needs to be applied on a case-by-case basis. Based on our experience we consider cap conditions

are reasonable measures to control the impacts arising from school activities.
In applying cap conditions we agreed that they need to be evidence based in accordance with principle 2.

In summary, we acknowledge that cap conditions should be evidence based. However, we are also aware that prescriptive conditions are easier to enforce and understand, and potentially easier to comply compared with outcome based conditions.

Conclusion

We acknowledge the need for the development of additional educational and child care facilities. However, we have concerns as to the scope of new planning and assessment framework which are being considered by the Department. These concerns relate to the potential scale of development which will be permitted without council consent and the related environmental and amenity impacts, the lack of independence in assessment and accountability of this development.

Political Donations – matters to be considered by Councillors at Meetings

