

Item No: R1 Recommendation to Council
Subject: **PLANNING CONTROLS FOR ROOF TERRACES AND LIFT OVERRUNS**
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File No: 18/27936
Reason for Report: To respond to two notices of motion adopted by Council; the first on 16 October 2017 in relation to roof terraces and the second on 23 April 2018 in relation to lifts and lift overruns.

Recommendation:

- A. THAT the report on the potential provisions to further regulate roof terraces, lifts and lift overruns be received and noted.
- B. THAT Council resolve to prepare and exhibit a draft development control plan consistent with the amendments contained in **Annexure 1** to amend Chapter B3 General Development Controls in Woollahra Development Control Plan 2015.

1. Background

This report responds to two notices of motion adopted by Council requesting a review of the planning controls that address impacts of development for roof terraces, lifts and lift overruns:

- **Roof terraces**

Council resolved on 16 October 2017:

That Council requests that staff prepare and submit a report to Council's Urban Planning Committee which reviews the provision for roof terraces in Woollahra DCP 2015 in regards to their potential impacts on:

- a. *The visual and acoustic privacy of adjoining and surrounding properties*
- b. *Their visual contribution to the streetscape and built environment, and*
- c. *Views and view corridors from private and public vantage points.*

No supporting information accompanied this notice of motion on the meeting agenda.

- **Lifts and lift overruns**

Council resolved on 23 April 2018:

That a report be submitted to the appropriate committee reviewing the Council's controls and how they might be amended to encourage good design outcomes with regard to lifts and lift overruns with particular emphasis on view loss, visual impacts and overshadowing.

The following rationale accompanied the notice of motion on the meeting agenda:

In light of the increasing use of lifts in development applications, we are seeing many lift over runs creating a dreadful outcome in terms of visual impact. While in many cases the lift over run does not cause view loss or overshadowing there are many visual impacts and this is becoming a big problem in the Vaucluse ward in particular.

Roof terraces and large balconies are an increasingly popular means of providing outdoor living spaces and an opportunity to increase the quality and amenity of the living environment for residents. Furthermore, the use of lifts to facilitate internal access is growing in use in both low and medium density residential development.

However, this also means view sharing, protecting visual and acoustic privacy and retaining solar access are important development considerations in assessing development applications for roof terraces and roof elements including lifts and lift overruns. Accordingly, up-to-date and relevant planning controls are required to ensure potential impacts are managed so that all residents can enjoy high levels of residential amenity.

Our current suite of residential controls has been evolving over the last ten years, and address a number of design considerations. These controls are generally consistent with State guidelines whilst also reflecting the planning principles set by the Land and Environment Court. To date, these controls have mostly provided consistent guidance for development of roof terraces, lifts and lift overruns.

2. Current planning controls

2.1. State Environmental planning Policy No. 65 Design Quality of Residential Apartment Development (SEPP 65)

SEPP 65 is the State-wide planning policy that applies to development for the purpose of residential flat buildings, shop top housing or mixed use development if the building is at least three or more storeys and contains at least four or more dwellings. The *Apartment Design Guide* (ADG) then provides design criteria and general guidance about how development proposals can achieve the nine design quality principles identified in SEPP 65. In Woollahra, SEPP 65 and the ADG apply to mixed use or multi-storey residential development in the *R3 Medium Density Residential Zone*, *B2 Local Centre Zone* and *B4 Mixed Use Zone*.

There are no mandatory provisions in the ADG for roof terraces or lift overruns that override local planning controls. However, development must give consideration to the following design guidance:

- *Roof top open spaces:*
A requirement for roof terraces is not mandated in the ADG. However, it is recognised through the development of the state policy/ADG that roof terraces can be effectively utilised for the provision of both community and private open space. The ADG encourages maximising the provision of both private and communal open space in apartment development, and this includes the use of balcony, podium and roof top areas. Relevant to roof terraces are the following:

Building height: aim

Building height controls promote articulated roof design and roof top communal open spaces, where appropriate.

(NSW Apartment Design Guide, p.30)

Design guidance

Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:

- *provide communal spaces elsewhere such as a landscaped roof top terrace or a common room*
- *provide larger balconies or increased private open space for apartments*
- *demonstrate good proximity to public open space and facilities and/or provide contributions to public open space*
(NSW Apartment Design Guide, p.55)

Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations. (NSW Apartment Design Guide, p.113)

- *Lift overruns*

Whilst there are limited provisions within the ADG to address lifts and lift overruns, the Guide promotes high-quality design that enhances the visual amenity of the public domain. Relevant to note are the following:

Where rooftop communal open space is desired, ensure adequate maximum height is provided and consider secondary height controls for lift/stair access and shade structures
(NSW Apartment Design Guide, p31)

Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view
(NSW Apartment Design Guide, p53)

2.2. Woollahra Local Environmental Plan 2014 (WLEP 2014)

The WLEP 2014 establishes the maximum building heights for the Municipality. The state-wide LEP definition for ***building height (or height of building)*** is:

- (a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*
including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

All building elements including roof terraces, lifts and lift overruns should be designed to comply with the applicable height in the WLEP 2014.

2.3. Woollahra Development Control Plan (WDCP 2015)

The WDCP 2015 establishes the detailed planning and design guidelines for development across the municipality. The controls guide the scale and bulk of development so that it is compatible with the site conditions and the desired future character of the location where the development is proposed.

All relevant extracts (including objectives and controls) from the WDCP 2015 which address roof terraces, lifts and lift overruns are listed in **Annexure 1**. This annexure includes a *tick/cross* column for both development types to identify which control applies to which development type.

2.3.1. Roof terraces

Chapter A3 Definitions of the WDCP 2015 contains the following definition of a ***roof terrace***:

a trafficable roof of a building (or part thereof)(including a garage or carport) which has the potential to be used for the purpose of private open space, storage or roof garden and which is either open to the sky or partly covered by a non-continuous shade device.

Controls to address the potential impacts from roof terraces are found throughout the WDCP 2015 in the following chapters:

- *B3 General Development Controls*
- *C1 Paddington Heritage Conservation Area*
- *C2 Woollahra Heritage Conservation Area*
- *C3 Watsons Bay Heritage Conservation Area*
- *D3 General Controls for Neighborhood and Mixed Use Centres*
- *D5 Double Bay Centre*
- *D6 Rose Bay Centre*
- *E1 Parking and Access*
- *G1 Babworth House, Darling Point*

- **Heritage Conservation Areas (HCA)**

Roof terraces are not considered to be characteristic of the Paddington and Watsons Bay HCAs, and are not supported as either private or communal open space. *Chapter C1 Paddington Heritage Conservation Area* contains the following control:

C1.4.8 – C12: Private and communal space is generally not permitted in the form of a roof terrace.

In the Woollahra HCA, only laneway garages with roof terraces are considered appropriate, and then only on steeply sloping properties where the floor level of the roof terrace is no higher than the ground floor level of the building and the terrace area is non-trafficable except for maintenance.

The existing controls in WDCP 2015 adequately deal with roof terraces in our Heritage Conservation Areas.

- **Business Centres**

Roof terraces are generally supported by the WDCP 2015 controls for *Neighbourhood and Mixed Use Centres*, the *Double Bay Centre*, and the *Rose Bay Centre*. Consistent with SEPP 65 and the ADG, the controls recognise that the provision of ground floor landscaped areas may not always be practical. In which case, open space should be provided above the ground in the form of balconies, roof gardens, roof terraces, loggias, or verandahs. The roof terrace controls require that the roof design is attractive from the street, and that the visual and acoustic privacy of adjoining dwellings is considered.

The existing controls in WDP 2015 (and where relevant SEPP 65/ADG) adequately deal with roof terraces in our Business Centres.

- **Residential Zones**

The now superseded *Woollahra Residential Development Control Plan 2003* (WRDCP 2003) permitted the use of roof terraces as a means of providing private open space for both dwelling houses and residential flat buildings. Their suitability was subject to controls relating to aspects of housing design including desired future character, height, open space, views, and acoustic and visual privacy.

During 2006 and 2007, these existing controls were reviewed in light of a Council Notice of Motion, the evolution of SEPP 65, recent development applications and relevant Court decisions. This review resulted in an amendment to the Woollahra Residential DCP 2003 (finalized on 4 July 2008) which introduced new planning controls to address potential amenity impacts of roof terraces.

In preparing WDCP 2015, further consideration was given to refining the controls relating to roof terraces. The controls were amended to address issues raised by the community and to further respond to the following Land and Environment Court judgements:

- *Super Studio vs Waverley Council [2004] NSWLEC 91*
- *Geoform Design Architects Pty Ltd v Woollahra Municipal Council [2012] NSWLEC 1278.*

As a result of this history, the current *Chapter B3 General Development Controls* of the WDCP 2015 contains numerous controls which are up to date, refined, and location-specific planning controls to address residential roof terraces. The relevant controls are located in the following sections:

- 3.5.2 Overshadowing
- 3.5.3 Public and private views
- 3.5.4 Amenity and acoustic privacy
- 3.7.1 Landscaped area and private open space

2.3.2. Lifts and lift overruns

- **Heritage Conservation Areas (HCA) and Inter-war flat buildings**

Lifts and lift over runs are only supported in HCAs where the changes retain the original character and design of the building and setting. The existing controls adequately deal with lift and lift overruns in our HCAs.

- **Business Centres**

Lifts and lift over runs are an integral part of development in our business centres, and generally the existing controls require that roof top elements are contained within the building envelope, and integrated into the roof design. The existing controls adequately deal with lift and lift overruns in our Business Centres.

- **Residential Zones**

The relevant sections of the WDCP 2015 that refer to lifts and lift overruns in relation to residential development are limited to the following sections:

- B3.5.3 Public and private views
- B3.8.7 Inter-war flat buildings
- E1.15 mechanical parking installations and paid parking stations [*Note: This section refers to car lifts only.*]

3. Comparable controls from other Sydney councils

In consultation with Council's development control (DC) officers, staff reviewed the existing planning controls, recent developments, and the controls of other Sydney councils in relation to roof terraces, lifts and lift overruns.

Relevant controls in the DCPs for Waverley, North Sydney, Mosman, Sutherland, Hunters Hill, Ku-ring-gai, City of Sydney, Canada Bay, and Northern Beaches (Manly) were examined.

3.1. Roof terraces

Roof terraces are generally discouraged in low density residential areas by councils in Greater Sydney. For example, Canada Bay does not permit roof terraces except on a limited range of sloping sites. However, most councils acknowledge that roof terraces are an appropriate form of residential development and accordingly have DCP controls that address potential amenity impacts.

The DCPs of other councils, including Northern Beaches (Manly) contain roof terrace controls which are similar to those already contained in the WDCP 2015. Whilst councils including Waverley and the City of Sydney have controls that are more restrictive than those contained within WDCP 2015.

Table 1 below contains extracts of some of these controls.

| Table 1: Other council controls addressing roof terraces, and a response from staff | |
|---|---|
| Other council's controls | Staff response |
| 1 | Canada Bay DCP 2017 |
| <p><i>No trafficable outdoor spaces are permitted on the uppermost rooftop of a building or on garage roofs, such as roof deck, terraces, patio, gardens and the like, however;</i></p> <p><i>Outdoor roof space may be considered for buildings on steeply sloping sites where this is the dominant characteristic in immediate vicinity as demonstrated by the Streetscape Character Analysis and there are no noise, privacy or amenity issues. [E2.4 Visual & Acoustic Privacy – C12]</i></p> | <p>Staff do not support the introduction of a roof terrace “ban” for the following reasons:</p> <ul style="list-style-type: none"> • Many of our residential areas contain development with roof terraces, which have been successfully designed and regulated through DCP controls. • This practice would be inconsistent with the provisions of SEPP 65 and the ADG. • This practice would be inconsistent with relevant court decisions. • Subject to appropriate controls, roof terraces provide high quality open space for both dwelling houses and residential flat buildings. |
| 2 | City of Sydney DCP 2012 |
| <p><i>Roof additions are not to include inset balconies, roof terraces or external staircases. [4.1.5.1 Ensuring sympathetic roof alterations and additions C(4)]</i></p> | <p>This approach is consistent with our existing controls for the Paddington and Watsons Bay HCAs. For the rest of our residential areas this approach is not practical - see response to 1 above.</p> |
| 3 | Mosman Residential DCP 2012 |
| <p><i>Due to their potential to affect privacy and views, roof top terraces are not permitted unless it can be demonstrated that there is no loss of privacy or view impact. [5.7 Privacy and security P3]</i></p> | <p>Staff do not support the introduction of a generic control, where there is already a series of carefully crafted performance based development controls in the WDCP 2014.</p> |
| 4 | North Sydney DCP 2013 |
| <p><i>P7 Private or communal open spaces such as terraces, patio, gardens and the like are not permitted on rooftops or garage roofs.</i></p> <p><i>P8 Despite P7 above, private or communal open spaces on roofs may be considered, but only if:</i></p> | <p>Staff do not support the introduction of a roof terrace “ban” – see response to 1 above.</p> <p>Staff do not support a control of this nature for the following reasons:</p> |

| Table 1: Other council controls addressing roof terraces, and a response from staff | |
|---|---|
| Other council's controls | Staff response |
| <p>a) <i>the space is designed such that there is no potential for existing or future overlooking of the space and subsequent noise and privacy issues;</i></p> <p>b) <i>the space is setback at least 1m from the extent of the external enclosing walls to the floor level below; and</i></p> <p>c) <i>the space does not exceed 50% of the floor area of the storey immediately below or 18m², whichever is the lesser; and</i></p> <p>d) <i>there is no other appropriate ground level space for outdoor recreation off a primary living room.</i></p> <p>[1.3.10 Visual Privacy – Decks, Patios and Terraces]</p> | <ul style="list-style-type: none"> As confirmed by the DC officers, our existing acoustic and visual and privacy controls suitably address these issues. The setback of the roof terrace should be considered having regard to the site circumstances and an assessment of the amenity impacts. Subject to the site conditions, a smaller or larger setback could be appropriate. The area of the roof terrace should be considered having regard to the site circumstances and an assessment of the amenity impacts. Subject to the site conditions, a smaller or larger roof terrace could be appropriate. Woollahra's planning controls have supported well located and designed residential roof terraces for over 10 years, even when ground level outdoor recreation space is available. |
| 5 | Waverley |
| <p><i>Roof tops are to be non-trafficable and not capable of being used as roof terraces or as entertainment areas, except in the following circumstances:</i></p> <p>i. <i>Developments contiguous to the subject site include a roof terrace;</i></p> <p>ii. <i>They will not result in unreasonable amenity impacts such as overlooking and loss of privacy and acceptable noise;</i></p> <p>iii. <i>They are not to exceed 15m² in area;</i></p> <p>iv. <i>They are provided for casual and infrequent activity and not as an extension of private open space or entertaining areas; and</i></p> <p>v. <i>Any access must be provided within the envelope of the main building and there are to be no access hoods or lift overruns proposed above the main roof level. Operable skylights and hydraulic</i></p> | <p>Staff do not support a control of this nature for the following reasons:</p> <ul style="list-style-type: none"> Subject to the site conditions, a well located and designed roof terrace could be appropriate when there are no adjoining sites with roof terraces. As confirmed by our DC officers, our existing acoustic and visual privacy controls suitably address this issue. The area of the roof terrace should be considered having regard to the site circumstances and an assessment of the amenity impacts. Subject to the site conditions, a smaller or larger roof terrace could be appropriate. DCP controls are unable to regulate the frequency of use of an area. WDCP 2015 already requires all building elements to be wholly contained within the building envelope. |

| Table 1: Other council controls addressing roof terraces, and a response from staff | |
|--|----------------|
| Other council's controls | Staff response |
| <p><i>lifts are acceptable where they finish generally flush with the roof level.</i> [Waverley DCP 2012 – 1.8 Visual & Acoustic Privacy – C(e)]</p> | |

3.2. Lifts and lift overruns in residential areas

Most councils in Greater Sydney have DCP controls addressing lifts and lift overruns. Additionally, some councils have LEP controls that permit height variations to promote high quality roof designs.

3.2.1. LEP control

The City of Sydney, Parramatta, North Sydney and Waverley have adopted the optional *Architectural roof features* clause from the Standard Instrument Local Environmental Plan. This clause encourages dynamic roof lines and aims to minimise impacts of roof features. It permits height variations to improve the visual presentation of a building, accommodate parapets, and accommodate screening to hide plant equipment including lift overruns. The relevant clause is as follows:

5.6 *Architectural roof features [optional]*

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

(a) *[set out objectives of the clause]*

**These objectives can be drafted by each council to fit their circumstances.*

(2) *Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.*

(3) *Development consent must not be granted to any such development unless the consent authority is satisfied that:*

(a) *the architectural roof feature:*

- (i) *comprises a decorative element on the uppermost portion of a building, and*
- (ii) *is not an advertising structure, and*
- (iii) *does not include floor space area and is not reasonably capable of modification to include floor space area, and*
- (iv) *will cause minimal overshadowing, and*

(b) *any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.*

Staff response

Council staff do not support the introduction of an LEP clause which justifies a variation to the WLEP 2014 height controls. The existing Woollahra LEP building heights and DCP building envelope controls have been crafted to reflect the desired future character of our residential precincts. There is sufficient flexibility in the existing height of building controls for well-designed buildings to incorporate all the required building elements. Inserting this control would erode the established LEP height limit and reduce certainty in the development process.

3.2.2. DCP controls

Most councils in Greater Sydney have DCP controls addressing lift overruns. These planning controls generally take the following approaches to minimising impacts on residential amenity and local character:

- *Amenity impacts on adjoining residential uses*
The DCPs of North Sydney, Mosman and the Northern Beaches (Manly) have planning controls specific to lift overruns and plant equipment to prevent adverse visual and acoustic impacts. Emphasis is placed on preserving the amenity of habitable rooms and private open space.
- *Integrated architecture roof design*
A number of DCPs also have controls requiring lift overruns and plant equipment to be integrated with the overall architectural roof design and have suitable screening. This includes the DCPs of Waverley, City of Sydney, Mosman, North Sydney, Sutherland, Ku-ring-gai, and Northern Beaches (Manly).

Staff response

Both of the above approaches are considered to have merit and warrant consideration for similar controls within the WDCP 2015. These controls would work in conjunction with our existing controls to promote better design outcomes, to encourage lifts and lift overruns to be integrated with the roof form and to minimise impacts on adjoining properties and views.

4. Options

Based on our review of planning controls for roof terraces, lifts and lift overruns, the following options are available to Council:

4.1. Roof terraces

- A. Retain the existing planning controls in WLEP 2014 and WDCP 2015 with no amendment.
This is not our recommended option.
- B. Similar to the existing provision which applies in the Canada Bay LGA, insert a provision which identifies that roof terraces are not supported in our residential areas.
This is not our recommended option for the following reasons:
 - Many of our residential areas contain development with roof terraces, which have been successfully designed and regulated through DCP controls.
 - Precluding roof terraces is inconsistent with the provisions of SEPP 65 and the ADG
 - Precluding roof terraces is inconsistent with relevant court decisions.
- C. Prepare additional/amended controls for roof terraces in our residential areas to be included in the WDCP 2015.
This is our recommended option for the following reasons:
 - Subject to appropriate controls, roof terraces provide high quality open space for both dwelling houses and residential flat buildings.
 - As our existing controls have been developed over the last 10 years, and are consistent with the planning principles established in relevant court judgements, potential amendments are limited. However, the proposed minor amendments will clarify the existing controls to further mitigate potential undesirable impacts from this type of development.

The key amendments are as follows. **Annexure 1** contains all the relevant changes to WDCP 2015.

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|------|------------------------------------|--|
| i. | B3.5.1 Streetscape character | Insert new control to ensure that the design of roof structures (including roof terraces) are well-designed, contribute positively to the streetscape, and integrated into the architecture of the building. |
| ii. | B3.5.3 Public and private views | Insert note that access to roofs should not comprise visually prominent stand-alone structures such as lifts or large stairways, particularly on flat roof forms. |
| iii. | B3.5.4 Acoustic and visual privacy | Insert note that screening to roof terraces will only be considered where it is consistent with the streetscape and will have no impacts on views or overshadowing of adjoining properties. |

4.2. Lifts and lift overruns in residential areas

A. Retain the existing planning controls in WLEP 2014 and WDCP 2015 with no amendment. This is not our recommended option.

B. Prepare an amendment to WLEP 2014 to include the Architectural roof features clause from the Standard Instrument Local Environmental Plan.

This is not our recommended option for the following reasons:

- The existing controls have been crafted to reflect the desired future character of our residential precincts.
- There is sufficient flexibility within our existing height controls to incorporate all building elements.
- A control of this nature would erode our established LEP height limits.

C. Prepare amended controls for lifts and lift overruns in our residential areas to be included in the WDCP 2015

This is our recommended option for the following reasons:

- There are already a number of controls which address lifts and lift overruns in residential development.
- The proposed changes will work in conjunction with our existing controls to promote an integrated approach and generally improve design outcomes.

The key amendments are as follows. **Annexure 1** contains all the relevant changes to WDCP 2015.

- | | | |
|------|---------------------------------|--|
| i. | B3.5.1 Streetscape character | Insert new control to ensure that the design of roof structures (including lifts and lift overruns) are well designed, contribute positively to the streetscape, and integrated into the architecture of the building. |
| ii. | B3.5.3 Public and private views | Insert note that access to roofs should not comprise visually prominent stand-alone structures such as lifts or large stairways, particularly on flat roof forms. |
| iii. | B3.7.3 Site facilities | Amend section to identify that site facilities includes lifts and lift overruns which should <ul style="list-style-type: none">● not be visible from the streetscape/public domain● not unreasonably impact on the visual or acoustic amenity of adjoining properties● be suitable enclosed or screened to minimise noise impacts to adjoining properties. |

5. Next steps

If Council decides to support amending the WDCP 2015, the next step is for staff to prepare and exhibit a draft DCP. The process for amending a DCP is set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

The draft DCP must be publicly exhibited for a minimum of 28 days. Public notice will be given in the *Wentworth Courier* and on Council's public website each week of the exhibition. The following organisations will also be notified:

- Adjoining councils including Randwick, Waverley and the City of Sydney
- Public authorities including the NSW Department of Planning and Environment, and the NSW Office of Heritage and Environment.

The outcome of public exhibition will be reported to a future meeting of the Environmental Planning Committee for consideration. If Council resolves to proceed with the amendment and adopts the draft DCP, the new planning controls will come into effect after a notice is published in the local paper.

6. Conclusion

View sharing, protecting privacy and providing solar access are common development issues across Greater Sydney. In Woollahra these are concerns raised by the community in relation to roof terraces, lifts and lift overruns.

Our current planning controls are generally consistent with State guidelines and reflect the planning principles set by the Land and Environment Court. To date, these controls have provided consistent guidance for development for roof terraces, lifts and lift overruns. They focus on compliance with the LEP building height, retaining views, and protecting residential amenity.

To supplement our existing controls, it is recommended that Council supports the preparation and exhibition of a draft DCP to amend the WDCP 2015 to promote the integration of roof terraces, lifts and lift overruns with the overall building design.

The recommended changes are consistent with best practice and will work in conjunction with the existing controls to promote high-quality design outcomes for the community.

Annexures

1. Roof terraces, lifts and lift overruns - EPC report - ANNEXURE 1 - 4 June 2018 [↓](#)

Woollahra DCP 2015: Existing and proposed controls relevant to roof terraces, lifts and lift overruns

Proposed changes – identified in red and underlined

Part B – General Residential

| WDCP 2015 | | | Roof terrace | Lifts | Comment | |
|--|--|-----------|---|-------|---------|--------------------|
| Chapter B3 – General Development Controls | | | | | | |
| B3.5.1 Streetscape character | | | | | | |
| 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. | - | - | No change |
| O2 | To ensure that development is of high visual quality and enhances the street. | C2 | Development retains vegetation of landscape value. | - | - | No change |
| O3 | To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings. | C3 | Development steps down sloping sites and follows the topography of the land. | - | - | No change |
| | | C4 | External building materials and colours do not detract from the streetscape. Bright or obtrusive colour schemes are avoided. | - | - | No change |
| | | <u>C5</u> | <u>Roof forms and roof structures (including roof terraces, lifts, lift overruns, stairwells, access hatches and other like structures) are well-designed, contribute positively to the streetscape, and integrated with the architecture of the building.</u> | ✓ | ✓ | Insert new control |
| B3.5.2 Overshadowing | | | | | | |
| O1 | To minimise overshadowing to adjoining properties. | C1 | The development is designed so that: a) sunlight is provided to at least 50% (or 35m ² 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. | ✓ | × | No change |

| WDCP 2015 | | | Roof terrace | Lifts | Comment | |
|--|---|-----|---|-------|---------|---------------|
| Chapter B3 – General Development Controls | | | | | | |
| B3.5.3 Public and private views | | | | | | |
| O2 | To provide additional views and vista from streets and other public spaces where opportunities arise. | C4 | Roof forms on the low side of the streets are designed to allow public views and add interest to the scenic outlook. Flat expansive roofs with vents, air conditioning units, <u>plant equipment (including lifts and lift overruns)</u> and similar structures are inappropriate. | ✓ | ✓ | Amend control |
| O3 | To encourage view sharing as a means of ensuring equitable access to views from private property. | C7 | The design of the roof form (<u>including roof terraces, lifts, lift overruns, stairwells, access hatches and other like structures</u>) provides for view sharing | ✓ | ✓ | Amend control |
| | | C8 | Roof terraces are uncovered to provide for view sharing. All elements on roof terraces are to comply with the maximum building height control. | ✓ | ✓ | No change |
| | | | <u>Note: Access to roofs should not comprise visually prominent stand-alone structures such as lifts or large stairways, particularly on flat roof sites.</u> | ✓ | ✓ | Insert note: |
| B3.5.4 Acoustic and visual privacy | | | | | | |
| O3 | To minimise the impacts of private open space. | C7 | Private open spaces and the trafficable area of roof terraces (at or below the second storey)(refer to figure 19) are to be suitable located and screened to prevent direct views to neighbouring: a) Habitable rooms (including bedrooms) within 9m; and b) Private open space within 9m. | ✓ | × | No change |
| | | 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 impact, its reasonableness and its necessity <i>Note: refer to Super Studio vs Waverley Council (2017) NSWLEC 91.</i> | ✓ | × | No change |
| | | C10 | The trafficable area of a roof terrace (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: a) Neighbouring private open space within 12m, or b) Windows of habitable rooms in neighbouring dwellings within 12m. | ✓ | × | No change |
| | | C11 | Lighting installations on a roof terrace or upper level deck are: 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. | ✓ | × | No change |

| WDCP 2015 | | | Roof terrace | Lifts | Comment |
|--|---|--|--------------|-------|---|
| Chapter B3 – General Development Controls | | | | | |
| | | <i>Note: Lighting of roof terraces must be designed in compliance with AS4282-1997 Control of obtrusive effects of outdoor lighting.</i> | | | |
| O4 To ensure that where roof terraces are inserted into roofs, they do not impact on their profile | C12 For a roof terrace within the 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. | <p>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</p> | ✓ | × | No change |
| | | | ✓ | × | No change |
| | | | ✓ | ✓ | <i><u>Note: Screening to roof terraces will only be considered where the screening is consistent with the streetscape and will have no impacts on views or overshadowing of adjoining properties.</u></i> |
| B3.7.1 Landscaped area and private open space | | | | | |
| 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. | C11 For residential flat building or multi dwelling housing—each dwelling is provided with private open space which has a minimum area of 8m ² 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. | | ✓ | × | No change |
| O6 To ensure that private open space areas are well-designed | C12 Development takes advantage of opportunities to provide north facing private open space to achieve comfortable year round use. | | ✓ | × | No change |
| | C13 Private open space is clearly defined for private use through planting, fencing or landscape features. | | ✓ | × | No change |

| WDCP 2015 | | Roof terrace | Lifts | Comment |
|--|--|--------------|-------|---|
| Chapter B3 – General Development Controls | | | | |
| | C14 The location of private open space: 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. | ✓ | × | No change |
| | 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. | ✓ | ✓ | No change |
| B3.7.3 Site facilities | | | | |
| Introduction | Some site facilities including lift overruns , 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. | × | ✓ | Amend introduction |
| O6 To ensure that mechanical plant equipment including lift overruns , air conditioning units and external condensers, do not have any adverse streetscape or amenity impacts. | C7 Mechanical plant equipment (including lift overruns) are not to be visible from the streetscape or public domain. | × | ✓ | Amend objective & control |
| | C8 Mechanical plant equipment (including lift overruns) 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. | × | ✓ | Amend control |
| | C9 Mechanical plant equipment (including lift overruns) are suitably enclosed or screened to minimise noise impacts to adjoining properties. Note: Noise emissions from mechanical plant equipment 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. | × | ✓ | Amend control |
| B3.8.7 Inter-war flat buildings | | | | |
| O8 To ensure that external alterations, additions and repairs do not detract from the original character and form of the building. | 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 landscape areas. | × | ✓ | No change |

| WDCP 2015 | | | Roof terrace | Lifts | Comment |
|--|---|---|--------------|-------|-----------|
| Chapter B3 – General Development Controls | | | | | |
| O9 | To ensure that external alterations and repairs do not detract from the original character and form of the building. | | × | ✓ | No change |
| O14 | To ensure that additions and alterations for fire upgrading and safety are discrete, and retain and respect the original and significant building fabric. | C42 | × | ✓ | No change |
| | | New lifts are designed and located so that the addition: a) is located outside the principal building form, if practical; and b) does not require significant alterations to existing common areas. | | | |

Part C – Heritage Conservation Areas

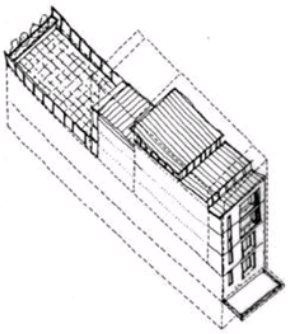
| WDCP 2015 | | | Roof terrace | Lifts | Comment | |
|--|--|---|--------------|-------|-----------|-----------|
| Chapter C1 – Paddington HCA | | | | | | |
| C1.3.6 Residential flat buildings and multi dwelling housing | | | | | | |
| O1 | To retain contributory examples of residential flat buildings and multi dwelling housing. | C10 | × | ✓ | No change | |
| | | Alterations to improve accessibility (including lifts, ramps and stairs) must retain the original character and design of the building and setting. | | | | |
| C1.4.8 Private open space, swimming pools, lightwell courtyards and landscaping | | | | | | |
| Introduction | | Roof terraces are not characteristic of Paddington and are not generally acceptable as private or communal open space. Further, because of the dense built character and sloping landform of Paddington, use of roof terraces can produce detrimental impacts on privacy due to overlooking and noise transmission. | | ✓ | × | No change |
| O6 | To ensure that the design and use of private open space areas has regard to environmental impact, impact on the fabric of adjoining properties, infrastructure, and on the | C11 | ✓ | × | No change | |
| | | The raising of open space areas to provide level access from a building is not permitted if there would be an adverse impact on adjoining properties and the significance of the property generally. | | | | |










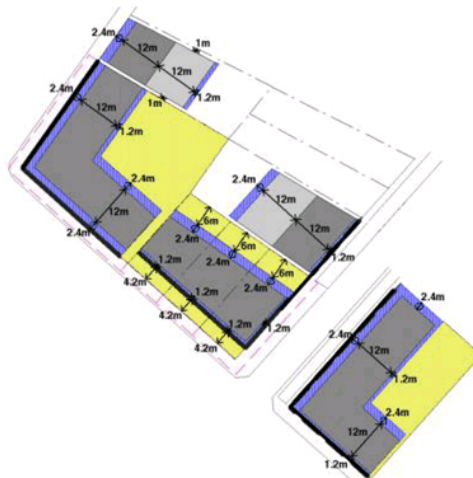
| WDCP 2015 | | | Roof terrace | Lifts | Comment | |
|--|--|--|---|-------|---------|-----------|
| | amenity of the occupiers of adjoining properties | | | | | |
| O8 | To ensure adequate and reasonable acoustic and visual privacy for neighbours. | C12 | Private and communal space is generally not permitted in the form of a roof terrace. | ✓ | ✗ | No change |
| Chapter C2 – Woollahra HCA | | | | | | |
| C2.4.5 Inter-War flat buildings | | | | | | |
| O3 | To allow sympathetic additions to the external façade of Inter-War flat buildings that conserve the distinctive or original characteristics of the building. | C10 | Proposed alterations to improve accessibility, including lifts, ramps and stairs, must retain the original character and design of the building and setting. | ✗ | ✓ | No change |
| C2.5.8 Parking and garages | | | | | | |
| O1 | To protect the amenity of the property, neighbouring properties and public open space in terms of visual and acoustic privacy and sunlight access. | C12 | Laneway garages with roof gardens will be permitted only on steeply sloping properties where the floor level of the roof terrace is no higher than the ground floor level of the building and the terrace is non-trafficable except for garden maintenance. | ✓ | ✗ | No change |
| Chapter C3 – Watsons Bay HCA | | | | | | |
| C3.3.6 Landscaping and private open space | | | | | | |
| | Introduction | Roof terraces are not characteristic of Watsons Bay and are not generally acceptable as private or communal open space. Further, because of the dense built character and sloping landform, use of roof terraces can produce detrimental impacts on privacy due to overlooking and noise transmission. | | ✓ | ✗ | No change |
| O5 | To ensure that the design and use of private open space areas do not adversely impact the amenity of adjoining properties. | | | ✓ | ✗ | No change |

Part D – Business Centres

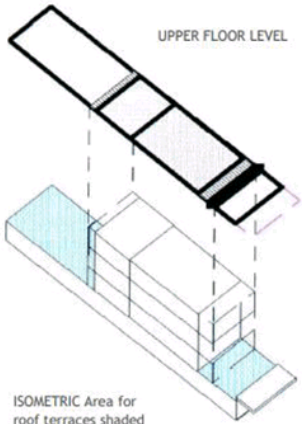
| WDCP 2015 | | | Roof terrace | Lifts | Comment | |
|---|---|-----|---|-------|---------|-----------|
| Chapter D3 General controls for Neighbourhood and Mixed Use Centres | | | | | | |
| D3.4 Built form | | | | | | |
| O6 | To promote building forms that provide quality internal environments and allow natural day lighting, natural ventilation and visual and acoustic privacy to dwellings | C22 | Roof terraces adjoin habitable space that is on the same floor level. Development does not include a rooftop terrace that is only accessed from a stairway and/or lift. | ✓ | ✓ | No change |
| O7 | To encourage roof design that creates a distinctive silhouette to buildings. | C24 | The profile and silhouette of the parapet, eaves and roof top elements are integrated in the roof design | ✓ | ✓ | No change |
| O8 | To ensure that plant and service equipment on roofs is not visually intrusive. | C25 | Where a pitched roof is proposed, the angle of the pitch is compatible with the existing development context. <i>Note: The building form including parapet and plant and lift overruns must be contained within the envelope height. Refer to LEP definition of building height.</i> | × | ✓ | No change |
| D3.8 Landscaped area and private open space | | | | | | |
| O2 | To ensure the adequate provision of accessible and useable private and communal open space. | C4 | The minimum area of above ground private open space is determined by the dwelling size as outlined below: a) small dwelling (less than 60m ²)—8m ² ; b) medium dwelling (60m ² to 80m ²)—12m ² ; and c) large dwelling (more than 90m ²)—16m ² . | ✓ | × | No change |
| O3 | To provide for the amenity of occupants. | C5 | The preferred depth of the required above ground private open space is 2.4m. The minimum permissible depth is 1.8m. | ✓ | × | No change |
| | | C6 | Development provides at least one balcony, terrace, loggia, roof terrace, deck or the like for each dwelling, within the area nominated for building articulation area. This open space is accessible from a main living area. | ✓ | × | No change |

| WDCP 2015 | | Roof terrace | Lifts | Comment | | | | | | | | | |
|---|--|--|---------------|--|--|-----------------|--|------------------|--|------------------|---|---|-----------|
| Chapter D5 Double Bay Centre | | | | | | | | | | | | | |
| D5.3.2 Key strategies for the Double Bay Centre | | | | | | | | | | | | | |
| Introduction | Enhance and improve the public domain and the provision of public facilities. a) Enhance the public domain of Double Bay by applying a coordinated approach to the public domain and streetscape. b) Encourage multiple uses of Council car park sites such as providing community services and facilities at the ground floor and/or street façade and/or the roof terrace of Council's car park properties. c) Promote the important role that public transport plans in Double Bay. | | ✓ | ✗ | No change | | | | | | | | |
| D5.6.3.2 Height | | | | | | | | | | | | | |
| O1 Encourage buildings to achieve the heights along street and lane frontages described by the control drawings. | C3 | The building (including lift tower machinery plant rooms and storage space) must be contained within the envelope height, with the following exclusions: chimneys, flues, masts, flagpoles communication devices, satellite dishes and antennae. | ✗ | ✓ | No change | | | | | | | | |
| D5.6.5.4 Private open space | | | | | | | | | | | | | |
| O1 Ensure every dwelling in the Double Bay Centre has direct access to private open space. | C1 | Provide at least one balcony, terrace, verandah, loggia, roof terrace or deck for each dwelling, within the area nominated for building articulation. This open space must be accessible from a principal living area. | ✓ | ✗ | No change | | | | | | | | |
| O2 Encourage occupied roof areas with roof gardens behind parapets where private open space at ground level is not available. | C2 | The preferred depth of the required open space is 2.4m and the minimum permissible depth is 1.8m. The minimum area of private open space is determined by the dwelling size: <table border="1" data-bbox="813 1034 1413 1230"> <thead> <tr> <th>Dwelling size</th> <th>Minimum required area of above ground open space</th> </tr> </thead> <tbody> <tr> <td>Small dwelling: less than 60m²</td> <td>8m²</td> </tr> <tr> <td>Medium dwelling: 60m² - 90m²</td> <td>12m²</td> </tr> <tr> <td>Large dwelling: more than 90m²</td> <td>16m²</td> </tr> </tbody> </table> | Dwelling size | Minimum required area of above ground open space | Small dwelling: less than 60m ² | 8m ² | Medium dwelling: 60m ² - 90m ² | 12m ² | Large dwelling: more than 90m ² | 16m ² | ✓ | ✗ | No change |
| | Dwelling size | Minimum required area of above ground open space | | | | | | | | | | | |
| Small dwelling: less than 60m ² | 8m ² | | | | | | | | | | | | |
| Medium dwelling: 60m ² - 90m ² | 12m ² | | | | | | | | | | | | |
| Large dwelling: more than 90m ² | 16m ² | | | | | | | | | | | | |
| | C3 | Roof terraces and balconies must be designed and orientated to protect the privacy of neighbours. | ✓ | ✗ | No change | | | | | | | | |

| WDCP 2015 | | Roof terrace | Lifts | Comment |
|------------------------------|---|----------------------------|----------------------------|--|
| Chapter D5 Double Bay Centre | | | | |
| | <p>C4 Lightweight pergolas, sunscreens, privacy screens and planters are permitted on roof terraces provided they do not increase the bulk of the building. These elements should not significantly affect the views available from adjoining properties, the immediate vicinity or on the nearby ridges.</p> <p>C5 The profile and silhouette of parapets, eaves and roof top elements must be considered in roof terrace design to provide an attractive building finish when viewed from the public and private domain.</p>  <p>FIGURE 50 Above ground open space Above ground open space may be created as a roof terrace</p> | <p>✓</p> <p>✓</p> <p>✓</p> | <p>×</p> <p>✓</p> <p>×</p> | <p>No change</p> <p>No change</p> <p>No change</p> |

| WDCP 2015 | | | Roof terrace | Lifts | Comment | | | |
|--|---|----|--|-------|---------|-----------|---|-----------|
| Chapter D6 Rose Bay Centre | | | | | | | | |
| D6.5 Built form envelopes: control drawings (example) | | | | | | | | |
| <p>BUILDING ENVELOPE</p> <ul style="list-style-type: none">  100% of this area per floor may be built on  50% of this area per floor may be built on  PREFERRED BUILDING LINE  Maximum building zone depths or setbacks Where side setbacks are indicated assume 1m unless otherwise stated  AREA FOR ARTICULATION  ROOF TERRACE AWNINGS  Continuous  Discontinuous  Awning to ground floor level below | | | <p>D6.5.6 Control drawing 3</p>  <p>Upper floor level controls New South Head Road / Dover Road / Ian Street</p> | | | ✓ | ✗ | No change |
| D6.6.3.6 Roof design | | | | | | | | |
| O1 | Promote design that contributes to the definition of the Core. | C4 | Roof design should minimise building bulk and overshadowing. | ✓ | ✓ | No change | | |
| O2 | Encourage roof design to create a distinctive silhouette to buildings | C5 | Roof terraces are encouraged (see detailed provisions in Section 6.6.5.2 Above ground open space). | ✓ | ✗ | No change | | |
| | | C6 | Air conditioning plant and equipment, must be concealed from the exterior and be within the building. When roof plant is proposed it must be integrated with the design of the roof and the composition of the building and not be readily visible from the public domain. | ✗ | ✓ | No change | | |

| WDCP 2015 | | Roof terrace | Lifts | Comment | | | | | | | | | |
|---|--|---|---------------|--|--|-----------------|--|------------------|--|------------------|--|--|--|
| Chapter D6 Rose Bay Centre | | | | | | | | | | | | | |
| D6.6.5.2 Above ground open space | | | | | | | | | | | | | |
| Introduction | The provision of deep soil landscaped areas, particularly in the Core is limited due to the deep plan requirements of shops on the ground floor, and underground parking. In these areas open space must be provided above ground, as roof gardens over car parking, roof terraces, loggias, balconies, and verandahs (refer to control drawings in Sections 6.5.2-6.5.8). | | ✓ | ✗ | No change | | | | | | | | |
| O1 Ensure every dwelling in the Rose Bay Centre has access to private open space by providing usable above ground open space on sites where there is no requirement for deep soil landscaped area. Refer to control drawings. | C1 | Where direct access to ground level private open space is not available, provide at least one balcony, terrace, verandah, loggia, roof terrace or deck for each dwelling, within the area nominated for building articulation. The minimum area of this element is determined by the dwelling size (see table). The minimum permissible depth is 1.8m and the preferred depth is 2.4m. This element should be accessible from a principal living space. | ✓ | ✓ | No change | | | | | | | | |
| O2 Encourage occupied roof areas with roof gardens behind parapets where private open space at ground level is not available. | <table border="1"> <thead> <tr> <th>Dwelling size</th> <th>Minimum required area of above ground open space</th> </tr> </thead> <tbody> <tr> <td>Small dwelling: Up to 60m²</td> <td>8m²</td> </tr> <tr> <td>Medium dwelling: 60m² - 90m²</td> <td>12m²</td> </tr> <tr> <td>Large dwelling: More than 90m²</td> <td>16m²</td> </tr> </tbody> </table> | | Dwelling size | Minimum required area of above ground open space | Small dwelling: Up to 60m ² | 8m ² | Medium dwelling: 60m ² - 90m ² | 12m ² | Large dwelling: More than 90m ² | 16m ² | | | |
| Dwelling size | Minimum required area of above ground open space | | | | | | | | | | | | |
| Small dwelling: Up to 60m ² | 8m ² | | | | | | | | | | | | |
| Medium dwelling: 60m ² - 90m ² | 12m ² | | | | | | | | | | | | |
| Large dwelling: More than 90m ² | 16m ² | | | | | | | | | | | | |
| | C2 | Roof terraces and balconies must be designed to protect the privacy of neighbours. | ✓ | ✗ | No change | | | | | | | | |
| | C3 | The profile and silhouette of parapets, eaves and roof top elements must be considered in roof terrace design to provide an attractive building finish when viewed from the public and private domain. | ✓ | ✓ | No change | | | | | | | | |
| | C4 | Lightweight pergolas, sun screens, privacy screens and planters are permitted on the roof, provided they do not increase the bulk of the building, and do not significantly affect the views enjoyed by adjoining properties, or those in the vicinity or on the nearby ridges. | ✓ | ✗ | No change | | | | | | | | |

| WDCP 2015 | | Roof terrace | Lifts | Comment |
|----------------------------|---|--------------|-------|-----------|
| Chapter D6 Rose Bay Centre | | | | |
| | <p>FIGURE 31 Three dimensional controls – Highlighting the area for roof terraces</p>  | ✓ | ✗ | No change |

Part E – General Controls for All Development

| WDCP 2015 | | Roof terrace | Lifts | Comment |
|---|---|--------------|-------|-----------|
| Chapter E1 Parking and Access | | | | |
| E1.15 Mechanical parking installations and paid parking stations | | | | |
| | (1) Mechanical parking installations such as car lifts and car stackers are generally not desirable, and will only be considered in exceptional circumstances. Mechanical parking installations may be permitted for residential and non-residential development where one or more of the following applies: <ul style="list-style-type: none"> The topography or lot size does not reasonably allow a simpler, more conventional parking arrangement. An existing building is being refurbished and there is no land available for additional parking. Refurbishment does not include extension of the building so as to increase site coverage or any other works to increase site coverage, all of which have the effect of reducing site area which could be used for conventional parking arrangements. In the case of non-residential development, the installations are for long-stay parking. In the case of residential development, the installations are for resident rather than visitor parking. | * | ✓ | No change |

Part G – Site-Specific Controls

| WDCP 2015 | | Roof terrace | Lifts | Comment |
|---|---|--------------|-------|-----------|
| Chapter G1 Babworth House, Darling Point | | | | |
| G1.4.4 Building envelope | | | | |
| O1 To ensure the built form and intensity of new development respects the scale and character of Babworth House and does not detrimentally affect the significant attributes on the site. | C4 Balconies, decks, bay windows, non-retractable awnings or other non-retractable solar screening devices and roof terrace balustrades are to be included within the planes of the building envelopes. | ✓ | * | No change |