

## SECTION 3 NON-RESIDENTIAL DEVELOPMENT IN RESIDENTIAL ZONES

### 3.1 INTRODUCTION

Non-residential development in residential zones generally comprises, but is not limited to, the following types of uses:

- Early education and care centres;
- Educational establishments;
- Information and education facilities;
- Health care facilities (including health consulting rooms, medical centres and hospitals);
- Places of worship;
- Community facilities;
- Neighbourhood shops; and
- Entertainment facilities.

There are also some instances, where non-residential development occurs within residential zones that operate pursuant to existing use rights (refer to Division 4.11 of the [EP&A Act](#)) or are a permissible use pursuant to cl.2.5 and Schedule 1 – *Additional Permitted Uses* to NSLEP 2013.

The majority of these uses are primarily operated from large scale buildings which are often inconsistent with the scale of residential development occurring within the residential zones. They can also lead to additional impacts on residential amenity in terms of traffic impacts and noise.

The purpose of this Section of the DCP is to provide guidance to applicants for the development of non-residential development in residential zones such that the impacts on residential amenity is minimised.

#### 3.1.1 General Objectives

The general objectives of this Section of the DCP are to ensure that non-residential development in residential zones:

- O1 is consistent with the principles contained within the *Integrated Land Use and Transport Policy*;
- O2 does not have adverse impacts on residential amenity or environmental quality;
- O3 is in context with surrounding development with regards to its bulk and scale;
- O4 contributes to the garden setting and lower scale character of North Sydney's residential neighbourhoods; and
- O5 is consistent with the character that is described in the relevant Planning Area Character Statements and Locality Area provisions.

#### 3.1.2 When does this section of the DCP apply?

This Section of the DCP applies to:

- (a) all development, other than all forms of residential accommodation, on land within the *R2 Low Density Residential*, *R3 Medium Density Residential*, *R4 High Density Residential* and *C4 Environmental Living* zones.

**Section 3 - Non-Residential Development in Residential Zones**

- (b) all development, other than all forms of residential accommodation, on land zoned *SP2 Infrastructure*, and where any adjacent or adjoining land is zoned:
  - (i) *R2 Low Density Residential*,
  - (ii) *R3 Medium Density Residential*,
  - (iii) *R4 High Density Residential*, or
  - (iv) *C4 Environmental Living*.

If land zoned *SP2 Infrastructure* is located adjacent to one or more than the following zones:

- (a) *R2 Low Density Residential*,
- (b) *R3 Medium Density Residential*,
- (c) *R4 High Density Residential*, or
- (d) *C4 Environmental Living*.

then the controls of the most restrictive zone will apply to the subject site. For example, if the subject site is located adjacent to land zoned *R2 Low Density Residential* and *R4 High Density Residential*, then the provisions of the *R2 Low Density Residential* would apply.

## 3.2 QUALITY BUILT FORM

In response to their local context, buildings need to be designed to respect the existing topography and relate to the rhythm and pattern of characteristic buildings in the prevailing streetscape. A comfortable and memorable street will be one where no one building or feature dominates.

Kerb and guttering, footpaths, fences, front gardens and the street frontage of buildings all contribute to the appearance of a street and influence how people feel in them and about them. Streets where people feel comfortable will exhibit consistency in these elements and relationships between the scale of these elements.

### 3.2.1 Streetscape

#### Objectives

- O1 To ensure that footpaths, kerb and guttering and street trees contribute to a consistent streetscape.

#### Provisions

- P1 All works within the road reserve must be undertaken in accordance with the [North Sydney Council Performance Guide](#) (refer to Part D: Section 7 – *Public Infrastructure* of the DCP).
- P2 All existing sandstone kerb and guttering must be retained and maintained.
- P3 Existing street trees are to be retained and protected by avoiding excavation or building within the drip line of the tree.
- P4 Plant new trees of the same species that are present in the street, or in accordance with guidelines or strategies adopted by Council.
- P5 Maintain a nature strip on-street if one exists.

### 3.2.2 Laneways

#### Objectives

- O1 To ensure that laneways are functional, attractive, safe and comfortable places for use by residents as part of their public space and pedestrian network.

### Section 3 - Non-Residential Development in Residential Zones

#### Provisions

- P1 The height of buildings facing laneways should respect the width of the lane (i.e. a one storey building generally provides the most appropriate scale).
- P2 Where car parking is only capable of being located at the boundary to the laneway, only open car spaces or carports will be permitted (i.e. roller doors are not permitted).
- P3 No more than 50% of the width of a laneway frontage may be allocated for car accommodation of any kind, or car park entrances.
- P4 Laneway fences are to be softened by planting trees and shrubs that hang over or through fences.
- P5 Existing trees on land that abut the laneway should be retained.
- P6 All new and rebuilt fences and structures (including car parking spaces) must be setback at least 1.2m from the laneway frontage. This setback is to be landscaped with appropriate low maintenance plants.

#### 3.2.3 Subdivision pattern

##### Objectives

- O1 To ensure that the characteristic subdivision pattern remains apparent, even if lots are subdivided or amalgamated.

##### Provisions

- P1 Design and locate buildings to reinforce the characteristic subdivision pattern in the neighbourhood.
- P2 Break down the bulk of larger buildings, where lots have been amalgamated, with bays or indents on the original building line.

#### 3.2.4 Siting

##### Objectives

- O1 To maintain the characteristic building orientation and siting.

##### Provisions

- P1 Buildings are to be sited in accordance with that described in the relevant Planning Area Character Statement or locality Area provisions (refer to Part F of the DCP), or if not identified for the relevant Planning or Locality Area, sited to relate to neighbouring buildings.
- P2 Site buildings within a single building form, addressing the street.
- P3 Orient each external wall parallel to the corresponding boundary of the site, unless another orientation is characteristic.

#### 3.2.5 Setbacks

##### Objectives

- O1 To reinforce the characteristic pattern of setbacks and building orientation within the street.
- O2 To control the bulk and scale of buildings.
- O3 To provide separation between buildings.
- O4 To preserve the amenity of existing dwellings and provide amenity to new dwellings in terms of shadowing, privacy, views, ventilation and solar access.

**Section 3 - Non-Residential Development in Residential Zones**

**Provisions**

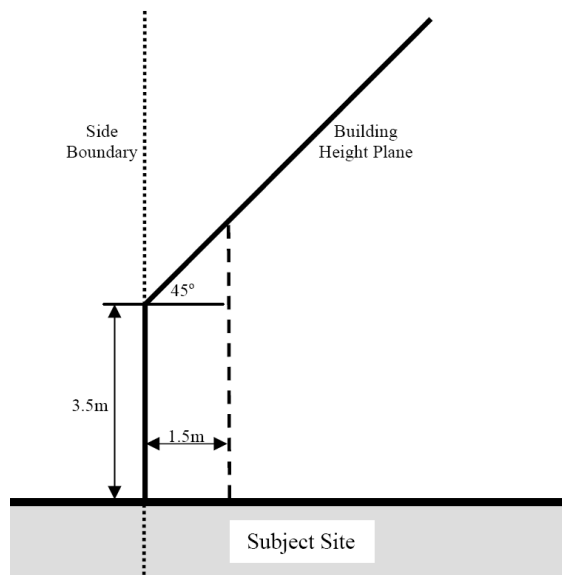
**Front**

- P1 The front setback must match the alignment of the primary facades of buildings on adjoining properties. Where different setbacks occur, the average of the setbacks of those primary facades is to be used.
- P2 An increased setback may be required where there is a need to reduce the visual dominance of a large scale premises through the incorporation of landscaping or other screening and design treatments.

**Side**

- P3 Building setbacks are to comply with the requirements set out in Table E-3.1.

TABLE E-3.1: Side Setback Requirements			
Zone	Minimum Setback Requirement		
R2 Low Density Residential R3 Medium Density Residential C4 Environmental Living	1 <sup>st</sup> storey (up to 4m)	900mm	
	2 <sup>nd</sup> storey (up to 7m)	1.5m	
	3 <sup>rd</sup> storey or higher (more than 7m)	2.5m	
R4 High Density Residential	On land with a height limit of 12m or less	3m; and The building must not exceed a building height plane commencing at 3.5m above ground level (existing) from side boundaries and projected internally to the site at 45 degrees (refer to Figure E-3.1).	
	On land with a height limit greater than 12m	1 <sup>st</sup> to 3 <sup>rd</sup> storey (up to 10m)	4.5m
		Above 3 <sup>rd</sup> storey (more than 10m)	6.0m



**Figure E-3.1:**

Setback and building height plane controls for the *R4 High Density Residential* zone, where the height limit is equal to 12m or less.

- P4 Where possible, side setbacks should match those on adjoining properties, or, if adjoining properties are not characteristic, with setbacks identified in the relevant

### Section 3 - Non-Residential Development in Residential Zones

Planning Area Character Statement or Locality Area provisions (refer to Part F of the DCP).

- P5 Despite P3 above, the building must be set back a minimum of 3m from the property boundary, where the adjoining site has balconies or windows to main living areas of dwellings or serviced apartments located at the same level.

#### Rear

- P6 Provide rear building setbacks that match those on adjoining properties, or, if adjoining properties are not characteristic, with setbacks identified in the relevant Planning Area Character Statement or Locality Area provisions (refer to Part F of the DCP).
- P7 Buildings within the *R4 High Density Residential* zone:
- (a) and where the land is restricted by a height limit of 12m or less, must not exceed a building height plane commencing at 3.5m above ground level (existing) from the rear boundary and projected at an angle of 45 degrees internally to the site (refer to Figure E-3.1); or
  - (b) and where the land is restricted by a height limit in excess of 12m must be setback at least 4.5m from the rear boundary for the 1<sup>st</sup> to 3<sup>rd</sup> storeys of the building (no more than 7m above existing ground level) and 6m for any part of the building above the 3<sup>rd</sup> storey.

#### Laneways

- P8 Despite P1 and P6 above, all buildings and structures must be setback at least 1.2m from a laneway. This provision does not apply to side setbacks.

### 3.2.6 Form, massing & scale

#### Objectives

- O1 The size of new buildings is consistent with surrounding, characteristic buildings and is not significantly larger than characteristic buildings.
- O2 The design of new buildings reflects and reinforces, or is complementary to, the existing character of the locality.
- O3 That buildings clearly define streets, street corners and public spaces.

#### Provisions

- P1 In addition to compliance with the maximum heights stipulated under NSLEP 2013, the number of storeys within the building should be consistent with that identified in the relevant Planning Area Character Statement or Locality Area provisions (refer to Part F of the DCP).
- P2 The finished floor height of the ground floor level should be no higher than 1m, measured vertically at any point, above ground level (existing).
- P3 Finished floor to ceiling heights are a minimum of 3.3m for each floor. Council may consider a variation to the minimum requirements, but only if the applicant can demonstrate that the non-residential floor space is capable of receiving satisfactory natural daylight and ventilation (e.g. shallow commercial spaces with large amounts of window area).
- P4 Where alterations and additions are proposed to a development relying on existing use rights, they must not result in the:
- (a) material loss of views from other properties or public places, or
  - (b) material overshadowing of other properties or public places, or
  - (c) material loss of privacy to other properties, or
  - (d) increasing of the overall building height, or



**Section 3 - Non-Residential Development in Residential Zones**

(e) landscaped area of the development being below the requirements set out in the DCP, or further decrease the landscaped area where the landscaped area is already below the requirements of the DCP, or

(f) site coverage of the development exceeding the requirements set out in this DCP, or further increase the site coverage where the landscaped area is already above the requirements of this DCP.

P5 Balconies must be incorporated within the building envelope.

P6 Ancillary buildings (e.g. garages, carports, sheds etc) should be a much smaller scale than the principle building.

P7 Where a building is to be located amongst buildings having a consistent form and scale the size, location and proportions of window, door openings and other distinctive features such as roof form should be carried over to the new development.

P8 Provide smaller door and window openings within masonry walls, so that glass does not dominate the façade.

P9 Where practical, each tenancy to a building should be provided with an individual entrance from a public street or public place.

P10 The apparent length of buildings should be broken down through the use of articulation, design and detailing, changes in materials and colours.

P11 High quality materials should be used throughout the building design.

P12 Building elements, such as materials, finishes, and window dimensions should relate to neighbouring buildings.

P13 Buildings are to respect the setting and curtilage of heritage items (refer to Part C: *Heritage Conservation* of the DCP).

### **3.2.7 Entrances and exits**

#### **Objectives**

O1 To enable equitable access to all persons regardless of ability.

O2 To ensure that entrances are clearly visible from the street and convey a sense of address.

#### **Provisions**

P1 Main entrances and exits located at the front of the site must be directly visible from the street.

P2 At least one main entrance to the building provides a continuous path of travel.

P3 Entrances must not be obscured by landscaping or other obstacles and have clear sight lines.

P4 Entrances are clearly identifiable to reduce confusion and unintentional entry.

P5 If exits to the building are closed after hours, this must be indicated at the entrance of the building.

P6 Entrance lobbies are well illuminated, with seating provided and a firm and level non-slip floor surface.

P7 Places of safe refuge are incorporated into the overall design of buildings. Lift lobbies or toilets may be used as all or part of a safe refuge.

P8 Access to the building must be designed in accordance with the provisions contained within Part D: Section 3 – *Accessibility* of the DCP.

### Section 3 - Non-Residential Development in Residential Zones

#### 3.2.8 Colours and materials

##### Objectives

- O1 To ensure new buildings reflect and reinforce the existing and desired character of a locality.

##### Provisions

- P1 Buildings should use colours, finishes and materials identified in the relevant Planning Area Character Statement or Locality Area provisions (refer to Part F of the DCP), if provided.
- P2 Natural colours and muted and earth tones should be used for major areas of the building, such as walls and roof, with stronger colours restricted to smaller features, such as window frames, doors and architectural detailing.
- P3 Avoid the extensive use of reflective glass, reflective metal and plastics on the exterior of buildings.
- P4 Buildings should incorporate a high proportion of masonry to glass as follows - if a vertical or horizontal line is drawn in any position on any façade it should not pass over more than 50% of glass, or 75% of clear opening and glass.

#### 3.2.9 Front fences

##### Objectives

- O1 To ensure that front fences contribute to a characteristic pattern of fences.
- O2 To enable causal surveillance of the public domain, minimising the potential for criminal activities to occur.
- O3 To provide visual and acoustical privacy.
- O4 To minimise their dominance on the street and contribute to a garden setting.

##### Provisions

- P1 Fences should be designed similar to those identified in the relevant Planning Area Character Statement or Locality Area provisions (refer to Part F of the DCP), or where no style and type is provided, they should be characteristic with those within the visual catchment of the site, when viewed from directly opposite the site.
- P2 The use of tall security fencing should be avoided. Where security fencing is demonstrated to be required, it must be primarily open in design such that it does not obscure the main building and is to be and supplemented with landscaping.
- P3 Fences may need to be articulated to minimise their visual impact.
- P4 Fences must not reduce the significance of a heritage item or heritage conservation area.

### 3.3 QUALITY URBAN ENVIRONMENT

The design, site layout and facilities of non-residential development should meet the needs of the future occupants, without having adverse effects on nearby residents or on the wider community and residential zone environment.

#### 3.3.1 Acoustic privacy

##### Objectives

- O1 To ensure that occupants of developments are provided with a reasonable level of acoustic privacy.

##### Provisions

- P1 Where buildings are located on busy roads incorporate the following into the design of the development to reduce traffic noise within the building:

**Section 3 - Non-Residential Development in Residential Zones**

- (a) materials with low noise penetration properties where practical;
- (b) cavity brick walls;
- (c) double glazing;
- (d) solid core doors;
- (e) concrete floors; and
- (f) recessed balconies.

- P2 Development comprising places of public worship, hospitals, educational facilities or child care centres on land which is on or is within 100m of a railway corridor, a road corridor for a freeway, a tollway, a transit way or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the Transport for NSW) must consider the requirements of the DoP's *Development Near Rail Corridors and Busy Roads – Interim Guideline* (19 December 2008) in accordance with cl.s 2.100(2) and 2.120(2) of [SEPP \(Transport and Infrastructure\) 2021](#). An acoustic report may be required to be prepared to demonstrate compliance with this Guideline and the acoustic requirements within cl.s 2.100(3) and 2.120(3) of the [SEPP \(Transport and Infrastructure\) 2021](#).

### 3.3.2 Centre-based Child Care Facilities – Capacity and Composition

#### Objectives

- O1 To ensure that impacts from child care facilities can be appropriately controlled.
- O2 To ensure that a reasonable distribution of child care places is provided for all age groups.

#### Provisions

- P1 A centre-based child care facility should not provide more than 90 child care places.
- Note:** To ensure a reasonable level of amenity is achieved for adjoining properties, a maximum provision of 75 child care places is considered to be best practice.
- P2 Where a centre-based child care facility provides more than 75 child care places, the facility must provide for small group care (i.e. provision must be made for separate entrances and playgrounds for different age groups).
- P3 Due to the desirability of providing additional child care places for children under the age of 2 years, a component of child care places in Long Day Care services must be allocated to children under the age of 2 years.

### 3.3.3 Vibration

#### Objectives

- O1 To ensure that occupants of developments are not unreasonably impacted upon by vibrations caused by the operation of railways and roadways.

#### Provisions

- P1 Development on land which is on or is within 60m of a railway corridor, or is adjacent to a road corridor for a freeway, a tollway, a transit way or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the Transport for NSW) must consider the requirements of the DoP's *Development Near Rail Corridors and Busy Roads – Interim Guideline* (19 December 2008) in accordance with cl.s 2.100(2) and 2.120(2) of [SEPP \(Transport and Infrastructure\) 2021](#). In particular, consideration should be given to the vibration criteria contained within the NSW Environment and Protection Authority's *Assessing Vibration: a technical guideline*. A vibration assessment report may be required to be prepared to demonstrate compliance with these Guidelines.



### Section 3 - Non-Residential Development in Residential Zones

#### 3.3.4 Site Coverage

##### Objectives

- O1 To ensure that development is balanced and in keeping with the optimum capacity of the site with no over development.
- O2 To ensure that development promotes the existing or desired future character of the neighbourhood.
- O3 To control site density.
- O4 To limit the building footprint so as to ensure adequate provision is made for landscaped area.

##### Provisions

- P1 Maximum site coverage must be in accordance with Table E-3.2.

TABLE E-3.2: Maximum Site Coverage Requirements		
Zone	Lot Size (m <sup>2</sup> )	Site Coverage (max)
<b>C4 Environmental Living</b> <b>R2 Low Density Residential</b>	0 to <230	65%
	230 to <500	50%
	500 to <750	40%
	750 to <1000	35%
	1000+	30%
<b>R3 Medium Density Residential</b>	All	50%
<b>R4 High Density Residential</b>	All	45%

- P2 For the purposes of P1, the following items are considered to constitute site coverage:
  - (a) buildings as defined by the [EP&A Act](#);
  - (b) garages and carports;
  - (c) sheds;
  - (d) enclosed / covered decks, pergolas and the like;
  - (e) swimming pools, spa pools and the like;
  - (f) other structures including:
    - (i) permanent BBQ structures;
    - (ii) cabanas;
    - (iii) external staircases;
    - (iv) gazebos;
    - (v) greenhouse/glasshouse;
    - (vi) plant rooms;
    - (vii) rainwater tanks;
    - (viii) ramps;
    - (ix) garbage storage facilities.

However, site coverage excludes:

- (g) any basement;

**Section 3 - Non-Residential Development in Residential Zones**

- (h) unenclosed balconies<sup>1</sup>, decks, pergolas and the like;
- (i) paving and patios (porous and non-porous);
- (j) driveways and car stand areas (porous and non-porous);
- (k) water features; or
- (l) anything else defined as landscaped area.

P3 For the purposes of P1, the area of any access handle, access way or right of carriageway is to be excluded from the calculation of site area and site coverage.

### 3.3.5 Landscape Area

#### Objectives

- O1 The specific objectives of the landscaped area controls are to:
- (a) promote the character of the neighbourhood;
  - (b) provide useable open space for the enjoyment of workers;
  - (c) provide a landscaped buffer between adjoining properties;
  - (d) maximise retention and absorption of surface drainage water on site;
  - (e) minimise obstruction to the underground flow of water;
  - (f) promote substantial landscaping, that includes the planting of trees that when mature will have significant canopy cover;
  - (g) control site density;
  - (h) minimise site disturbance;
  - (i) contributes to streetscape and amenity;
  - (j) allows light to penetrate between buildings;
  - (k) encourage the provision of space for biodiversity conservation and ecological processes; and
  - (l) provide a buffer between bushland areas and development.

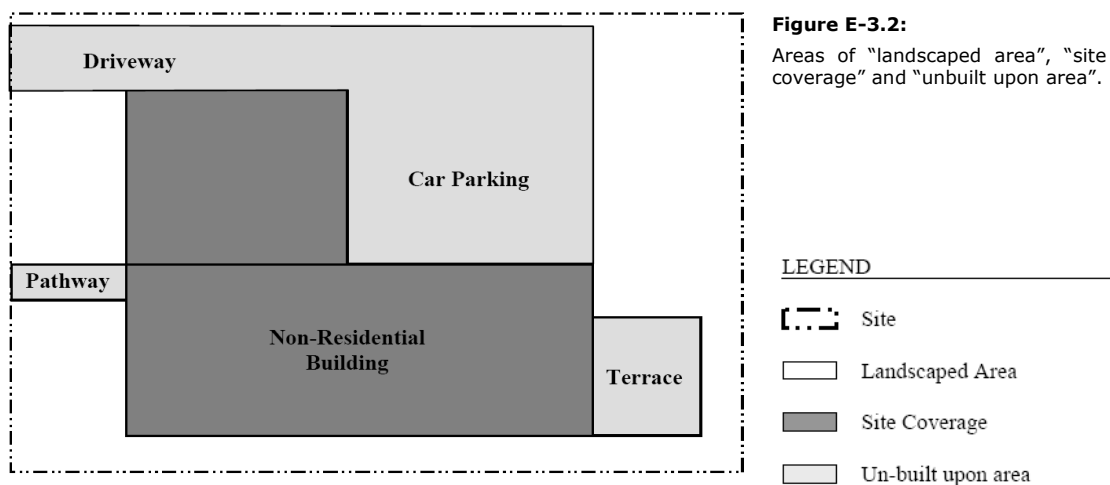
#### Provisions

- P1 Provide a minimum landscaped area and maximum un-built upon area in accordance with Table E-3.3.

<b>TABLE E-3.3: Minimum Landscaped Area and Un-built upon Area Requirements</b>			
<b>Zone</b>	<b>Lot Size (m<sup>2</sup>)</b>	<b>Landscaped Area (min)</b>	<b>Un-built upon area (max)</b>
<b>C4 Environmental Living R2 Low Density Residential R3 Medium Density Residential</b>	0 to <230	15%	20%
	230 to <500	30%	20%
	500 to <750	40%	20%
	750 to <1000	45%	20%
	1000+	50%	20%
	All	30%	20%
<b>R4 High Density Residential</b>	All	40%	15%

<sup>1</sup> Balconies which are open on more than 1 side and are not located under the roof line of the building or a balcony directly above.

### Section 3 - Non-Residential Development in Residential Zones



P2 For the purposes of P1:

- (a) landscaped area is considered to comprise all parts of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area<sup>2</sup>;
- (b) The area of any access handle, access way or right of carriageway is to be excluded from the calculation of site area, landscaped area and un-built upon area; and
- (c) the following items are considered to constitute un-built upon area:
  - (i) any part of a basement which does not comprise site coverage;
  - (ii) unenclosed balconies<sup>3</sup>, decks, pergolas and the like;
  - (iii) paving and patios (porous and non-porous);
  - (iv) driveways and car stand areas (porous and non-porous);
  - (v) water features; or
 however, un-built upon area excludes:
  - (vi) anything else comprising site coverage; or
  - (vii) anything else comprising landscaped area.

<sup>2</sup> Landscaping located above a basement or on the roof of a building does not constitute "landscaped area".

<sup>3</sup> Balconies which are open on more than 1 side and are not located under the roof line of the building or a balcony directly above.



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