

SECTION 1 INTRODUCTION

1.1 NAME OF THIS DEVELOPMENT CONTROL PLAN

This plan is known as North Sydney Development Control Plan (DCP) 2013. The DCP was adopted by Council on 2 September 2013 and came into effect on 13 September 2013.

1.2 WHERE THIS DEVELOPMENT CONTROL PLAN APPLIES

This DCP applies to land identified in the Land Application Map to North Sydney Local Environmental Plan 2013 (NSLEP 2013).

1.3 RELATIONSHIP TO OTHER PLANS AND POLICIES

This DCP is to be read in conjunction with NSLEP 2013. If there is any inconsistency between this DCP and the LEP, the LEP will prevail.

This DCP repeals the following DCPs pursuant to cl.22 of the Environmental Planning and Assessment Regulation 2000:

- (a) North Sydney DCP 2002;
- (b) North Sydney Development Control Plan No. 1;
- (c) D.C.P. No. 25 Child Care in Commercial Zones;
- (d) D.C.P. No 31 - Outdoor Advertising;
- (e) D.C.P. No 34 - Brothels and Adult Services;
- (f) D.C.P. No 35 - Notification;
- (g) D.C.P. No 36 - Telecommunications;
- (h) D.C.P. No 39 - Access and Mobility;
- (i) D.C.P. No 40 - Boarding Houses; and
- (j) D.C.P. No 41 - Contaminated Land.

This DCP is also to be read in conjunction with the following:

- (a) Environmental Planning and Assessment Act, 1979 ([EP&A Act 1979](#));
- (b) Environmental Planning and Assessment Regulation 2000 ([EP&A Regulation 2000](#));
- (c) Relevant State Environmental Planning Policies (SEPPs) and deemed SEPPs;
Note: It is advised to check www.legislation.nsw.gov.au for the most current list and version of applicable SEPPs.
- (d) [Local Government Act 1993](#);
- (e) Building Code of Australia (BCA);
- (f) Relevant Australian Standards as identified throughout this DCP;
- (g) Land and Environment Court Planning Principles (refer to Part A: Section 1.11); and
- (h) Any other policy or document identified for consideration throughout this DCP.

1.4 SAVINGS PROVISION

North Sydney DCP 2002 continues to apply if one or more of the following instances occurs:

- (a) if a development application was lodged with Council, but had not finally been determined before this DCP came into effect, or

- (b) if a development application applies to land deferred from NSLEP 2013.

1.5 PURPOSE OF THIS DEVELOPMENT CONTROL PLAN

The purpose of this DCP is to supplement North Sydney LEP 2013 and provide more detailed provisions to guide future development, such that impacts on the community and environment are minimised. The DCP is intended for use by:

- property owners;
- developers;
- the community; and
- the consent authority.

The DCP has been prepared in accordance with s.3.43 of the [EP&A Act 1979](#) and Part 3 of the [EP&A Regulation 2000](#).

Pursuant to s.4.15 of the [EP&A Act 1979](#), the consent authority is required to take into consideration the relevant provisions of this DCP when determining an application for development. However, strict compliance with the provisions of this DCP does not guarantee that development consent will be granted. Section 4.15 of the [EP&A Act 1979](#) contains other matters that must be considered in determining a development application including:

- Any relevant in-force environment planning instruments (SEPP or LEP) or proposed instrument that has been the subject of public consultation under the [EP&A Act 1979](#);
- Any draft or in-force planning agreement that has been entered into under s.7.4, of the [EP&A Act 1979](#);
- Any relevant prescribed matters in the [EP&A Regulation 2000](#);
- The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
- The suitability of the site for the development;
- Any submissions made in accordance with the [EP&A Act 1979](#) or [EP&A Regulation 2000](#); and
- The public interest.

In addition, the consent authority will assess each development application according to its merits and in the context of the site and its locality.

1.6 AIMS OF THIS DEVELOPMENT CONTROL PLAN

The aims of this DCP are to:

- (a) Ensure that development positively contributes to the quality of the natural and built environments;
- (b) Encourage development that contributes to the quality of the public domain;
- (c) Ensure that development is economically, socially and environmentally sustainable;
- (d) Ensure future development has consideration for the needs of all members of the community;
- (e) Ensure development positively responds to the qualities of the site and its context;
- (f) Ensure development positively responds to the character of the surrounding area; and

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- (g) Ensure that the actions of the North Sydney Local Strategic Planning Statement (as amended) and the North Sydney Local Housing Strategy (as amended) are achieved.
- (h) Ensure that the Directions Outcomes and Strategies of the North Sydney Community Strategic Plan are achieved.

1.7 STRUCTURE OF THE DEVELOPMENT CONTROL PLAN

The DCP comprises 5 parts as follows:

- (a) General Requirements;
- (b) Development Controls;
- (c) Character Statements;
- (d) Dictionary; and
- (e) Appendices.

Each of these parts is described in the following subsections.

1.7.1 Part A – General Requirements

Part A of the DCP comprises 5 sections containing information relating to the status and use of the DCP in the development assessment process.

1.7.2 Part B – Development Controls

Part B of the DCP comprises 21 sections, each containing provisions relating to a specific type of development or issue.

Each section to this Part commences with a general explanation of what the issues are and what Council is trying to achieve. This is supported by a number of objectives and provisions for each particular issue that needs to be considered in the assessment of a proposed development when it applies.

Many of the provisions are performance based, which provides added flexibility in meeting the desired intent of the provision where developments may not necessarily meet specific numerical standards, due to site or environmental constraints.

Generally, meeting the specific objectives and provisions of each section will achieve overall compliance. The DCP format is intended to encourage flexibility and innovation in development while ensuring the objectives for North Sydney are achieved. In this context Council will not consider favourably development proposals that are inconsistent with the objectives of the DCP. However, Council will consider development proposals that achieve the objectives of the DCP by means other than the provisions in this DCP.

In every neighbourhood there will be examples of development that do not comply with this DCP. DCP's can't undo what has been done in the past and they are often designed to prevent things that have been allowed in the past from reoccurring. For this reason, the existence of features or aspects of development that do not comply with this DCP will have no influence on whether a development or feature will be approved.

Variations to key built form controls will generally not be supported. A detailed written justification is required to be submitted with all applications seeking a variation to a key built form control. Subsection 1.8 to this Part provides further details as to when additional information is required.

Applicants will need to consider the Sections of the DCP that are relevant to their particular development and design their proposal in accordance with the objectives and provisions of those sections. To further assist applicants in determining which Sections of the DCP may be relevant to a particular development, each section makes reference to other Sections of the DCP that may also need to be considered.

1.7.3 Part C – Area Character Statements

The LGA comprises a number of neighbourhoods which display distinct characteristics. This Part of the DCP identifies the desired future outcomes for each of these neighbourhoods. In addition, this Part of the DCP contains additional provisions which relate to development within these neighbourhoods. The provisions within this Part take precedence over the provisions within Part B of the DCP.

1.7.4 Dictionary

Definitions for the interpretation of the provisions of the DCP are contained in the Dictionary at the end of this DCP. The definitions contained within dictionary to NSLEP 2013 are adopted for the purposes of this DCP.

1.7.5 Appendices

This part contains useful information that is referred to throughout the DCP.

1.8 VARIATIONS TO KEY DEVELOPMENT CONTROLS

To ensure the consistent application of key development standards contained within this DCP, the consent authority must not grant development consent to any development application which does not comply with the following key development standards:

- Setbacks, contained within provisions P2 and P6 to s.1.4.6, P6 and P7 to s.1.4.3 and P3 and P7 to s.3.3.6 to Part B of the DCP,
- Site coverage controls, contained within provisions P1 to s.1.5.5 and P1 to s.3.4.4 to Part B of the DCP, and
- Landscaped area and unbuilt upon area controls contained within provisions P1 to s.1.5.6 and P1 to 3.4.5 to Part B of the DCP.

However, the consent authority may grant development consent to a development application which does not comply with the aforementioned key development standards but only if it has considered the following matters:

- (a) the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (i) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (ii) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (b) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required above, and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (c) the consent authority has considered:
 - (i) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (ii) the public benefit of maintaining the development standard.



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1.9 REQUIREMENTS FOR SUBMISSION OF INFORMATION WITH DEVELOPMENT APPLICATIONS

Part A: Section 3 – *Submitting an Application* provides a checklist of information to be included when submitting a development application.

For further advice on the information required to be submitted with a development application, please contact Council’s Customer Service Centre.

1.10 MONITORING AND REVIEW

Consent authorities are required to keep LEPs and DCPs under regular and periodic review under s.3.21(1) of the [EP&A Act 1979](#). Council is committed to this process to ensure that the Plans continue to be useful and relevant planning instruments.

It is proposed to undertake a comprehensive review the LEP and DCP at five (5) yearly intervals in order to:

- (a) assess the continued relevance and responsiveness of the Plan’s provisions;
- (b) measure the achievement of the objectives of the Plan;
- (c) identify the need for changes to the provisions to better achieve the objectives of the Plan; and
- (d) ensure the availability of adequate development capacity under the Plan’s provisions.

The DCP may also be required to be updated on a more regular basis due to a need to immediately resolve arising issues to ensure that the desired future character of North Sydney is maintained and the amenity of residents protected.

1.11 LAND AND ENVIRONMENT COURT PLANNING PRINCIPLES

The Land and Environment Court have produced a number of Planning Principles to provide guidance on how the decision making process might be applied to the facts and circumstances for a particular type of case or issue.

Planning Principles deal with a broad range of topics and generally fall into one of two categories:

- Descriptive and Prescriptive Principles: These types of Planning Principles include describing what may/might be regarded as the answer when a planning instrument proposes that an undefined performance criterion must be achieved.
- Process Orientated Principles: These types of principles provide guidance for decision makers on how to consider an issue where there is no detailed approach in the relevant planning instrument.

When preparing a development application, applicants are advised to consider the Land and Environment Court Planning Principles. The Planning Principles can be viewed on the Land and Environment Court’s [website](#).

New Planning Principles may be introduced at any time and are also subject to amendment without notice. Accordingly, applicants are advised to always check the Land and Environment Court website for the most current Planning Principle that applies when preparing a development application.



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