

# PART A PRELIMINARY INFORMATION

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## A1 STATUTORY INFORMATION

This Development Control Plan is referred to as *Waverley Development Control Plan 2012* (WDCP 2012). ~~The~~ is ~~WDCP~~ has been prepared in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation 2000).

### 1.1 COMMENCEMENT

This DCP was adopted by Council on [insert date] and came into force on [insert date].

### 1.2 LAND TO WHICH THIS DCP APPLIES

This DCP applies to all land within the Waverley Council Local Government Area (LGA).

### 1.3 PURPOSE

This DCP provides strategies, objectives and development guidelines for the assessment of Development Applications (DA) and complements the provisions of the *Waverley Local Environmental Plan 2012* (WLEP 2012).

### 1.4 RELATIONSHIP WITH OTHER PLANS, STANDARDS AND CODES

This DCP should be read in conjunction with ~~Waverley Local Environmental Plan 2012~~ (~~WLEP 2012~~). Where there is an inconsistency between this Plan and the WLEP 2012, the LEP prevails. This DCP is also to be read in conjunction with the following:

- *Environmental Planning & Assessment Act 1979*;
- *Environmental Planning & Assessment Regulation 2000*;
- *Local Government Act 1993*;
- Any relevant State Environmental Planning Policy (SEPP);
- Any relevant Land and Environment Court Planning Principle;
- Building Code of Australia;
- Any relevant Australian Standard (identified or not in this Plan);
- Any policy or guideline adopted by Council.

It is the responsibility of the applicant to identify all relevant legislative requirements. The NSW Legislation website should be regularly checked for the most up-to-date version of all legislation and can be accessed at: [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

**1.5 COMPLIANCE**

Section 79C of the *EP&A Act 1979* requires Council to take this DCP into consideration when determining applications. Compliance with the provisions of this DCP does not necessarily guarantee that consent to a DA will be granted. Each DA will be assessed having regard to the current LEP, DCP, adopted Council policies, [State Environmental Planning Policies](#), and any other matters listed in Section 79C of the *EP&A Act 1979*.

**1.6 SAVINGS PROVISION**

If an application has been made before the commencement of WDCP 2012, but not finally determined, the development application must be determined as if WDCP 2012 had not commenced.

All applications made after the commencement date of an amendment to the WDCP 2012 are subject to WDCP 2012 as amended at the date of lodgement.

Please refer to the Amendment History at the front of WDCP 2012 for relevant commencement dates.

A reference to an application in the paragraph above is a reference to:

- a development application;
- an application to modify a development consent;
- an application to review a determination of a development application; or
- an application to review an application to modify a development consent.

~~If an application has been made before the commencement of WDCP 2012 in relation to land which the DCP applies, and the development application has not been finally determined before that commencement, the development application must be determined as if WDCP 2012 had not commenced. Please refer to the Amendment History at the front of this DCP for relevant commencement dates.~~

~~A reference to an application in the paragraph above is a reference to a development application, an application to modify a development consent or an application to review a determination of a development application or to review an application to modify a development consent.~~

~~All applications received after the commencement date of an amendment to the DCP are subject to the DCP as amended.~~

**1.7 OFFENCES**

Section 125(1) of the *EP&A Act 1979* provides that where any matter or thing is by or under this Act or Regulation directed or forbidden to be done, a person offending against that direction or prohibition shall be guilty of an offence against this Act.

**1.8 STRUCTURE**

<b>PART A</b> Preliminary Information	Describes the purpose and structure of the DCP <del>development application submission requirements</del> ; and advertising and notification requirements <u>for various development and application types</u> .
<b>PART B</b> General Provisions	Provides <del>general provisions</del> controls that relate to all development and land including environmental protection, heritage, <u>design excellence, advertising and signage, public art, the public domain</u> , transport and parking, accessibility and safety.
<b>PART C</b> Residential Development	Provides controls for residential development including new and alterations and additions to single and dual occupancy development and multi dwelling housing, residential flat buildings and the residential component of shop top housing.
<b>PART D</b> Commercial Development	Provides controls for commercial development including restricted premises, <del>advertising and signage</del> and footpath seating for restaurants and cafes.
<b>PART E</b> Site Specific Development	Provides specific controls for development located within Bondi Junction, Bondi Beach and Waverley's other commercial centres known as Local Village Centres.
<b>PART F</b> Development Specific	Provides controls on specific development types including shared <del>residential</del> accommodation, tourist <u>and visitor</u> accommodation, <del>and child care centres</del> <u>and places of public worship</u> .
Definitions & Abbreviations	Defines terms and abbreviations used in this DCP that are not defined by either the EP&A <del>Act 1979</del> or the WLEP <u>2012</u> .

**A32 ADVERTISING AND NOTIFICATION**

This Part sets out the notification process including the extent and type of notification required for each type of development application (DA), and any subsequent requests for amendments, modification and review of development.

The term 'notification' generally refers to the process of notifying affected property owners and/or occupants of an application by way of letter and, in some circumstances, a notice on the site.

'Advertising' refers to the process of notifying the wider community by placing a notice in the local or other newspaper (this form also includes the *Notification* process).

**23.1 OBJECTIVES**

- (a) To encourage community participation in the development application process.
- (b) To set out matters ~~for Council consideration when forming its own opinion~~ whether or not the enjoyment of neighbouring land may be detrimentally affected by a proposal.
- (c) To outline procedures for notifying owners and/or occupiers of land affected by a Development Application.
- (d) To outline the length and type of advertising requirement for each type of proposal.

**23.2 DEVELOPMENT TO WHICH ADVERTISING AND NOTIFICATION APPLIES**

- (a) Advertising and notification provisions apply to the following applications:
  - (i) Development Applications – as per Table 1;
  - (ii) Modifications of a development consent – Section 96(1A), Section 96 (2), Section 96 (AA), Section 96 (AB) of the *EP&A Act 1979*;
  - (iii) Requests to review a determination (e.g. refusal) of a development application – Section 82 (A) of the *EP&A Act 1979*; and
  - (iv) Footpath seating for restaurants and cafes where, in the opinion of the Council officer, amenity impacts may arise. Examples include applications for greater than 30 seats, sites within or adjoining residential zones, and premises with a liquor license.
- (b) The following applications will not be notified:
  - (i) Exempt development;
  - (ii) Complying development;
  - (iii) Section 96(1) application for modification of a consent to correct a minor error, misdescription or miscalculation; and
  - (iv) DAs to strata title new buildings, which have not been occupied.

**32.3 PROCESS TO DETERMINE THE EXTENT OF NOTIFICATION**

- (a) Council will notify persons in accordance with Table 1 where in the authorised Council officer's opinion, the enjoyment of the adjoining or neighbouring land may be detrimentally affected. Types of issues that may be considered include the following:
- (i) The likely impacts of the development including, but not limited to: loss of views; loss of privacy; overshadowing; noise generation; visual bulk; hours and type of use; traffic and parking impacts; ~~and~~
  - (ii) Any ~~other~~ instance that the council officer deems notification of a given DA is appropriate and required.
  - (iii) The minimum extent of notification is outlined in Section Part A23.7 Advertising and Notification Requirements and may be varied where in the authorised council officer's opinion additional (or lesser) properties should be notified.

**32.4 PERSONS TO BE NOTIFIED**

- (a) Notification will be provided to the following:
- (i) All persons who, according to Council's property records, own or occupy land immediately adjoining the application site and any others that may (in the opinion of the Council officer) be affected by the proposal.
  - (ii) Where the notified property comprises a strata titled building, the Owners Corporation will be notified and any units that are considered to be directly affected (in the opinion of the Council officer) by the proposal.
  - (iii) The owner/occupant of any other property that (in the opinion of the Council officer) may be affected by the proposal.
  - (iv) The elected Councillors and the relevant local precinct committee will be notified of all Advertised and Notified Development as per Table 1 in this Part.
- (b) If the land to be notified is in an adjoining LGA, names and addresses of owners shall be obtained by Council from that adjoining Council.

**32.5 METHOD OF NOTIFICATION**

- (a) Development applications where required to be notified or advertised will be notified through all or part of the following ways:
- (i) Written Notice;
  - (ii) Email notification;
  - (iii) Site Notice;
  - (iv) Advertisement in the local or other newspaper; and/ or
  - (v) Documents available on Council's website.
- (b) Designated and Advertised development will be notified in accordance with the EP&A Act A-1979.

**2.6 RENOTIFICATION PROCEDURES****32.6.1 Amendments prior to determination**

Amendments to an application will be re-notified unless in the opinion of the Council officer the change(s) ~~or where there is more than one change, each change,~~ results in lesser impact.

The notification period may be reduced if in the opinion of the Council officer all persons affected by the change(s) have been given an opportunity to make a submission.

The extent of the notification may be limited to those persons who in the opinion of the Council officer may be affected.

**32.6.2 Modifications and reviews (post-determination)**

- (a) Modifications of a development consent (other than minor modifications) – Council will notify those persons who were notified of the original development application and any other person who, in the opinion of the Council Officer, may be affected by the modification.
- (b) Reviews of determinations (e.g. refusal) – Council will notify any person who made a submission in respect to the original application.

**32.6.3 Post determination notification**

All those that made a written submission in respect of a development application will be notified of Council's decision once that application has been determined. A list of development applications approved will be published in one of the local newspapers.

**32.7 ADVERTISING AND NOTIFICATION REQUIREMENTS**

Table 1 provides guidelines of the type and length of notification. The notification period may be altered at the discretion of the assessing officer following consideration of the nature and likely impact of the proposal or the circumstances of the case.

The Council, any committee of the Council, the General Manager or the responsible Council officer may direct that a development application or an application to modify a development consent be advertised and/or notified to any additional persons or the like.

Where an application does not fall into one of the categories, Council will determine the most appropriate notification period using Table 1 as a guide.

There are 3 types of public exhibition procedures:

Type A – 14 days notification.

Type B – 21 days notification.

Type C – 28 days notification AND advertising in the local newspaper.

Type B, all Multi Residential Developments including Mixed Use Development, and development to a Heritage Item, all require a site notice.

~~All types (A, B and C) also require a site notice.~~

**NOTE**

1. In circumstances where the notification period is 14 days and would commence between the third and last week of December, that notification period shall be extended to 21 days. Notwithstanding this specified period, in certain circumstances, Council may use its discretion to allow an extension of the prescribed notification period.
2. *“Minor works”* are works that in~~In~~ the opinion of the consent authority are of,~~the proposed development is of~~ a minor nature or consists of maintenance.
3. *“Immediately adjoining properties”* are those which share a common boundary with the subject property.
4. Notification periods for advertised development commences on the date of notice in the newspaper.
5. Site notice and newspaper provisions may not apply to modifications or amendments.
6. Notification of a development application or modification will be provided to only the relevant Precinct Committee.
7. Notification for Councillors and Precincts will remain for all applications in a weekly listing.

Table 1 – Advertising and Notification Requirements	
Proposed Use/ Development	Notification
<b>Single/small scale residential</b>	
Dwelling Houses and Dual Occupancies – alterations, additions and new buildings, whether attached, semi-detached or detached	A
<b>Multi residential</b>	
Alterations and additions to multi dwelling housing, mixed use development, residential flat buildings, shop top housing, seniors housing or housing for people with a disability	A
New multi dwelling housing, mixed use development, residential flat buildings, shop top housing, seniors housing or housing for people with a disability	B
<b>Commercial - Accommodation</b>	
Bed & breakfast establishment	A
Alterations and additions to boarding house/group home	A
New Boarding house/group home	B
Alterations and additions to backpacker's accommodation/Hostel	A
New backpacker's accommodation/Hostel	B
Alterations and additions to hotel/motel/serviced apartment	A
New Hotel/motel/serviced apartment	B
<b>Commercial – Retail (selling products)</b>	
Footpath seating for restaurants/cafes and/or occupation of footpaths	A
Change of use	A
Alterations and additions to bulky goods premises	A
New bulky goods premises	B
<b>Commercial - Business (selling services)</b>	
Child care centre	A
Community facility	A
Educational establishment	A
Health consulting rooms	A
Home-based child care	A
Home business/industry	A
Medical centre	A
Alterations and additions to function centre	A
New function centre	B
Alterations and additions to restricted premises	A
New restricted premises	B
Alterations and additions to sex services premises	A
New sex services premises	B
<b>Heritage</b>	
Heritage conservation areas or minor work to heritage listed sites – all categories of development except change of use and footpath seating	A
Heritage listed sites (excluding minor works) – all categories of development except change of use and footpath seating	B
<b>Other</b>	
Amended plans	A
Any building/activity which in opinion of Council would detrimentally affect owners/occupiers nearby land	A
Signage	A

Table 1 – Advertising and Notification Requirements	
Proposed Use/ Development	Notification
Subdivision (Torrens Title) and strata subdivision (except new buildings not yet occupied)	A
Alterations and additions to place of public worship	A
New place of public worship	B
Road reservation/widening	B
Designated development	C
Planning Agreement	C

~~Table 1 – Advertising and notification requirements~~