

REPORT CM/7.1/20.04



Subject: Draft Waverley Development Control Plan 2012
(Amendment No. 8) - Exhibition

TRIM No: A20/0155

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RECOMMENDATION:

That Council:

1. Exhibits the Draft Waverley Development Control Plan 2012 (Amendment No. 6) attached to this report for a minimum period of 28 days, in accordance with Section 3.43, and Clause 5 of Schedule 1 of the Environmental Planning and Assessment Act 1979 (EP&AA 1979).
2. Exhibits the Draft Community Participation Plan (Amendment No.1) attached to this report for a minimum period of 28 days, in accordance with Clause 1 of Schedule 1 of the Environmental Planning and Assessment Act 1979 (EP&AA 1979).
3. Adopts the amended Development Application Guide as attached to this report.

1. Executive Summary

The purpose of this report is to:

1. Outline the key changes that are proposed as part of the Draft Waverley Development Control Plan 2012 (Amendment No. 8), the Draft Community Participation Plan (Amendment No. 1) and the Development Application Guide.
2. Obtain Council resolution to publicly exhibit the Draft Waverley Development Control Plan 2012 (Amendment No. 8), Draft Community Participation Plan (Amendment No. 1).
3. Outline the consultation strategy proposed for the public exhibition of the Draft Waverley Development Control Plan 2012 (Amendment No. 8), Draft Community Participation Plan (Amendment No. 1).
4. Obtain Council resolution to adopt the amendments to the Development Assessment Guide, to be effective immediately.

2. Introduction/Background

A Development Control Plan (DCP) contains detailed planning and design guidelines, for specific uses or areas, which complement the development standards contained in Local Environmental Plans (LEPs). DCPs cannot contradict objectives or the development standards set out in LEPs.

This report outlines the annual housekeeping changes proposed to the *Waverley Development Control Plan 2012 (Amendment No. 7)* that came into effect on 2 March 2020. These amendments address matters that were not covered by the project scope of Amendment No. 7 as well as additional matters that have been raised through further consultation with Council and Council staff.

It is noted that a comprehensive review of the entire Waverley DCP will be undertaken in the latter half of 2020 with an adoption date likely in mid-2021. The new DCP will align with the preparation of the comprehensive Waverley LEP as well as the Standardised DCP Template anticipated to be released from the Department of Planning, Infrastructure and Environment in 2020. Accordingly the changes presented in the draft Waverley DCP provided here are of a minor and housekeeping nature. More significant changes have been referred to the comprehensive review.

3. Relevant Council Resolutions

Meeting and date	Minute No.	Decision
Council meeting 12 December 2017	CM/8.14/17.12	5. Prepares a report outlining how the WLEP and WDCP need to be and can be amended to improve security in the public domain and where large groups of people can congregate for all new large developments. This could include increased CCTV coverage.

4. Discussion

The preparation of the draft Waverley Development Control Plan 2012 (Amendment No. 8) (draft DCP), draft Waverley Community Participation Plan (draft CPP) and draft Waverley Development Application Guide (draft DA Guide) has involved Council staff across different directorates to identify issues for review and conducted a number of staff workshops to discuss a range of matters. The key matters area addressed below, and a full list of proposed changes is provided in Attachment 1. The proposed draft documents are provided in Attachment 2 – Draft Waverley Development Control Plan 2012 (Amendment No.8), Attachment 3 – Draft Waverley Community Participation Plan, and Attachment 4 – Draft Waverley Development Application Guide.

Key Proposed Amendments to the Waverley Development Control Plan

1. Deletion of Part A2 Advertising and Notification

As part of the changes to the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulations 2000* that were made in March 2018, Councils are required to prepare a Community Participation Plan which addresses advertising and notification requirements as set out in the Regulations. Waverley Council adopted its first Community Participation Plan in November 2019. Accordingly, this section is now redundant in the DCP, and is to be removed.

2. Changes to the structure of Part C Residential Development

Amendment No. 6 of the DCP separated the previous Part C2 High Density Residential Development into two sections – Part C3 Medium Density Development and Part C4 High Density Development - to more appropriately align with State policies governing medium density development (*Low Rise Medium Density Housing Code*) and residential flat building development (*State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development* (SEPP 65)).

Feedback from applicants and Waverley's advisory and determination panels is that this has made assessing buildings subject to SEPP 65 more difficult as there were less site-specific provisions to assess a development against. Whilst the original intention of this separation of the two chapters into Medium and High Density Residential Development was to create clarity around the planning controls and to better align with the State policies, this merger is proposed to be undone to provide advisory and determining roles with additional provisions that can guide the assessment of SEPP 65 development such as setbacks, sunlight access, etc.

3. Inter-War Buildings provisions to apply to all building types

The Inter-War Buildings provisions were introduced to Part C Residential Development of the DCP in Amendment No.6 to provide additional protections to Inter-War flat buildings. Since Amendment No. 6, there have been a number of development applications for alterations and additions to Inter-War shop-top housing buildings, or shop fronts with no residential component. To increase the application of these controls, it is proposed that they are moved to Part B General Provisions, to apply to all Inter-War buildings across the LGA, and not just residential flat buildings.

4. Changes to strengthen controls to protect character of semi-detached dwellings

Recent development applications have raised concerns that the controls in the Waverley DCP are not strong enough to retain the character of existing semi-detached dwellings, and the lack of clarity around these controls is resulting in poor urban outcomes, where one half of a semi-detached dwelling pair is demolished, and proposed to be replaced by either a new modern-style building that does not relate to its pair, or to be replaced by a detached dwelling that has no relationship to its pair. The proposed controls aim to retain the front portion of all semi-detached dwellings so as to ensure that the two dwellings always present as a pair. Accordingly demolition is not supported, and alterations and additions are proposed to occur only from behind the main ridgeline of the roof form. In the case where both semi-detached dwellings are proposed to be demolished and replaced, there are controls to ensure that the replacement dwellings are designed as a pair.

5. Improve security in the public domain and large developments

This proposed change responds to a Council Minute (CM/8.14/17.12) as stated in Part 3 of this report that Council:

Prepares a report outlining how the WLEP and WDCP need to be and can be amended to improve security in the public domain and where large groups of people can congregate for all new large developments. This could include increased CCTV coverage.

Public spaces in private developments where large gatherings may take place are often provided with security measures such as providing safety through the design of the building, where the design of the public space has adequate 'eyes on the street' from surrounding residences, or from the public domain. In developments where this is not the case, the Development Assessment team currently require the provision of CCTV cameras in these locations as considered necessary.

In terms of providing greater security for the public domain, Council's DCP currently provides for public safety through the controls and objectives of Part B10 Safety. These provisions are to be read in conjunction with the NSW Government's Crime Prevention and Assessment of Development Applications Guidelines under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. In addition, all developments are to provide a Crime Prevention Through Environmental Design (CPTED) assessment, which addresses how the design of the development will contribute to increased safety both within the development and in the public domain.

Council officers recommend that these provisions are adequate and in line with best practice for designing for safety. However it is recommended that the current discretionary approach for developments proposing public spaces that may permit gatherings be clarified in the DCP. Accordingly this is proposed as a new control in Part B10 Safety as:

Where public spaces of larger developments could result in the gathering of groups of people, the development may be required to provide CCTV facilities to monitor those areas.

Proposed Amendments to the Waverley Community Participation Plan

6. Administrative changes regarding notification

The proposed changes to the CPP are considered minor and are corrective or seek to reduce administrative burden on Council.

Proposed Amendments to the Waverley Development Application Guide

7. Clarification of Public Art requirements

To ensure better design outcomes for our urban environment, the requirements for the provision of a public artwork are proposed to be clarified. The requirement is currently:

For all new development and major alterations and additions within the B3 Commercial Core and B4 Mixed Use Zone in Bondi Junction.

The proposed new requirement is:

Developments located in a B1, B3 or B4 zone and with a construction value exceeding \$10 million are required to integrate a public artwork into the development to a minimum value of 1% of the construction costs (excluding administration and associated costs).

To support this change, a Public Art in the Private Domain Procedure Manual is being prepared to guide applicants through Council's process of assessment and decision making associated with a public artwork.

8. Provide greater clarification around when a context plan is required

Several development applications have recently been submitted without a contextual analysis of the streetscape or surrounding area, which was required in the case of these applications. This has been clarified.

Both of the proposed changes to the DA Guide will also require the DA Checklist to be updated.

5. Financial impact statement/Time frame/Consultation

Financial impact statement

There are no financial impacts as a result of the proposed changes.

Consultation

A summary of the proposed changes as provided in Attachment 1, and the proposed draft documents as provided in Attachments 2 – 4 are recommended to be publicly exhibited for a minimum of 28 days as required by Schedule 1 of the EP&A Act. Precinct committees will be advised of the exhibition and an advertisement will be placed in the Wentworth Courier. Copies of the draft documents will be made available at the Customer Service Office and on Council's 'Have Your Say' website.

Time frame

Following the endorsement of the draft documents for exhibition, it is envisaged that public exhibition of the documents will be conducted between April/May 2020 for a minimum of four weeks. The outcome of the public exhibition is expected to be reported to Council in June 2020 with the documents expected to be effective by 1 July 2020.

6. Conclusion

Matters raised by ongoing consultation with relevant Council officers have been appropriately considered in the annual housekeeping review of the Waverley Development Control Plan 2012. The Draft Waverley Development Control Plan 2012 (Amendment No. 8) is consistent with legislation, Council's policies, plans and strategies. As the comprehensive review of the entire Waverley DCP will be undertaken in the latter half of 2020, the changes presented in the draft DCP provided here are of a minor and housekeeping nature. More significant changes have been referred to the comprehensive review.

7. Attachments

1. Attachment 1 - Summary of amendments in Draft WDCP 2012 (Amendment No 8)
2. Attachment 2 - Draft WDCP 2012 (Amendment No 8)
3. Attachment 3 - Draft Community Participation Plan
4. Attachment 4 - Draft Development Application Guide .