Contents

Part 1  Statutory Information.............................................. 1
  1.1  About this Development Control Plan.......................... 1
       1.1.1  What is a Development Control Plan (DCP)............ 1
       1.1.2  Name of this DCP.................................... 1
       1.1.3  Land to which this DCP applies.......................... 1
       1.1.4  Relationship to other plans............................. 1
       1.1.5  Savings and transitional provisions...................... 1
       1.1.6  Legislative background.................................. 1
       1.1.7  What does this DCP attempt to do?....................... 1
       1.1.8  Non legal parts of this DCP................................ 2
              1.1.8.1  Development application guidelines................. 2
              1.1.8.2  Notes........................................... 2
              1.1.8.3  Appendices....................................... 2
       1.1.9  General aims and objectives.......................... 2
       1.1.10  Structure of this DCP.................................. 3
       1.1.11  Compliance with the controls and objectives........... 4
       1.1.12  Order of priority for applying controls............... 5
       1.1.13  Variation to development controls in the DCP........ 5
  1.2  The Consultation and Notification Process............... 6
       1.2.1  Objectives............................................ 6
       1.2.2  Consultation with neighbours and Council............. 6
       1.2.3  Proposals not requiring notification.................. 6
       1.2.4  Proposals requiring notification........................ 8
       1.2.5  Notification standards................................ 8
       1.2.6  Notification by letter................................ 8
       1.2.7  Notification letter inclusions.......................... 9
       1.2.8  Site notice............................................ 10
       1.2.9  Newspaper notice...................................... 10
       1.2.10  What to include in a submission....................... 10
       1.2.11  How Council deals with a submission.................. 10
       1.2.12  Following the progress of an application............ 11
1.1 **About this Development Control Plan**

1.1.1 **What is a Development Control Plan (DCP)**

A Development Control Plan (DCP) is a commonly used town planning document which provides detailed guidance for the use of land and design and assessment of new development.

1.1.2 **Name of this DCP**

The name of this DCP is Marrickville Development Control Plan 2011. This DCP was adopted by Council on 12 July 2011 and came into effect on 15 December 2011.

1.1.3 **Land to which this DCP applies**

This DCP applies to the whole of the Marrickville Local Government Area (LGA).

1.1.4 **Relationship to other plans**

This DCP is to be read in conjunction with Marrickville Local Environmental Plan 2011 (MLEP 2011). In the event of an inconsistency between the provisions of the two documents, the provisions of MLEP 2011 shall prevail to the extent of the inconsistency.

1.1.5 **Savings and transitional provisions**

This DCP does not apply to an application under *Environmental Planning and Assessment Act 1979* (EP&A Act) which was lodged with Council but not finally determined before the commencement of this DCP. Any application lodged before the commencement of this DCP will be assessed in accordance with any relevant previous DCPs or other Council’s policy which applied at the time of application lodgement.

1.1.6 **Legislative background**

This DCP has been prepared in accordance with Division 3.6 of the EP&A Act and with Part 3 of the *Environmental Planning and Assessment Regulation 2000* (the EP&A Regulation).

On commencement of this DCP, all DCPs which previously applied within the former Marrickville LGA will cease to have effect. This DCP is the only DCP that applies to all land to which the MLEP 2011 applies.

1.1.7 **What does this DCP attempt to do?**

The purpose of this DCP is to supplement the provisions of MLEP 2011 and provide more detailed provisions to guide development.

Under Section 4.15 of the EP&A Act, Council is required to consider the relevant provisions of this DCP when assessing a development application. However, compliance with the provisions of this DCP does not guarantee development consent will be granted.
Section 4.15 of the EP&A Act contains other matters that must be considered in assessing a development application.

1.1.8 Non legal parts of this DCP

This DCP contains information based on standards maintained by various agencies or best practice notes. Such information or standards may change without prior notice to Council. This DCP therefore separates this information so it is easily identifiable. The applicant must check the accuracy of this information before lodging a development application. While all attempts will be made to keep this information up to date, Council takes no responsibility for the accuracy of any information provided in that part. Non-legally binding information is provided in:

1.1.8.1 Development application guidelines

All information provided in ‘Development Application Guidelines’ section of this DCP is for guidance only and does not form part of the adopted DCP. That section is based on best practice notes available at the time of compiling this DCP and is provided in good faith to assist applicants in preparing a development application.

1.1.8.2 Notes

Notes throughout this plan, provided inside a light orange text box as illustrated below, are provided for guidance only and do not form part of the adopted DCP.

This information is provided for guidance only and does not form part of the legal document.

1.1.8.3 Appendices

Appendices provided at the end of several sections of this DCP are provided for guidance and information only and do not form part of the adopted DCP, except where they identify areas on maps.

1.1.9 General aims and objectives

This DCP aims to:
1. Review and amend the contents of Council’s existing DCPs so that they reflect contemporary planning practices;
2. Incorporate the amended/updated provisions of the existing DCPs and codes together with new planning provisions on contemporary and other planning issues into a single DCP; and
3. Build upon MLEP 2011 by providing detailed objectives and controls for development.

The objectives of this DCP are:

O1 To provide detailed design objectives and controls which encourage innovative design that positively responds to the character and context of the locality and which encourage high quality urban design outcomes.

O2 To ensure future developments consider the needs of all people who live, work and visit the Marrickville LGA, including people with a disability.

O3 To maintain and enhance the environmental and cultural heritage of the Marrickville LGA.
To enhance the quality of life and the wellbeing of the local community.

To support the integration of transport and land use, including increased residential and employment densities in appropriate locations near public transport, while protecting residential amenity;

To promote sustainable transport, i.e. reduced car use and increased use of public transport, walking and cycling;

To ensure that development considers the principles of ecologically sustainable development, in particular energy, water and stormwater efficiency, solar access, waste reduction and local biodiversity.

To ensure that development positively responds to the qualities of the subject site and is appropriate for the site and its context.

To minimise negative impacts of development on the amenity of surrounding neighbourhood.

To provide guidelines for specific development types and development sites to ensure appropriate high quality development within the Marrickville LGA.

1.1.10 Structure of this DCP

Table 1 provides an overview of the structure and application of this DCP:

<table>
<thead>
<tr>
<th>Part of the DCP</th>
<th>Main contents</th>
<th>Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Application Guidelines</td>
<td>This is a non legal part of the DCP that introduces the requirements for lodging a development application, types of applications, information to be submitted with a development application and the development application assessment process.</td>
<td>This part provides information on all types of development applications.</td>
</tr>
<tr>
<td>Part 1 – Statutory Information</td>
<td>This part contains the general aims and objectives of the DCP, legal information concerning various aspects of the DCP and compliance with the controls and objectives; and the consultation and notification process for applications made under the Environmental Planning and Assessment Act.</td>
<td>This part applies to all types of development in the Marrickville LGA that require Council’s consent to carry out that development.</td>
</tr>
<tr>
<td>Part 2 – Generic Provisions</td>
<td>This part contains objectives and controls for generic issues such as advertising, equity of access and mobility, solar access, parking, waste management or fencing which may be applicable to more than one type of development. This part is divided into four sub-categories namely environmental/general design principles, environmental amenity, environmental management and environmental site analysis.</td>
<td>This part provides objectives and controls for various aspects of a development activity. For example, a proponent for a dwelling house development must refer to this part to find relevant controls for landscaping, private open space, fencing, privacy, solar access or parking, in addition to specific controls applying to dwelling house development provided in Part 4.</td>
</tr>
<tr>
<td>Part 3 – Subdivision, Amalgamation and Movement Networks</td>
<td>This part contains objectives and controls applying to land subdivision.</td>
<td>This part must be referred to if a development activity involves any form of subdivision.</td>
</tr>
</tbody>
</table>
### Part 1: Statutory Information

<table>
<thead>
<tr>
<th>Part of the DCP</th>
<th>Main contents</th>
<th>Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 4 – Residential Development</td>
<td>This part contains specific objectives and controls applying to residential development. It is divided into three parts: Low Density Residential Development; Multi-Dwelling Housing and Residential Flat Buildings; and Boarding Houses. Other forms of residential development like backpackers’ accommodation will be added to this Part at a later date.</td>
<td>This part must be referred to for any residential development.</td>
</tr>
<tr>
<td>Part 5 – Commercial and Mixed Use Development</td>
<td>This part contains specific provisions applying to mixed use development, office premises, business premises, retail premises and includes provisions relating to commercial/light industrial/residential interface; and design guidelines.</td>
<td>This part applies to commercial developments including developments that contain a commercial component.</td>
</tr>
<tr>
<td>Part 6 – Industrial Development</td>
<td>This part includes specific objectives and controls relating to industrial development and includes provisions relating to industrial/residential interface; multi unit industrial development; controls for specific land uses; creative industries; residential uses in specified employment areas; and period industrial buildings.</td>
<td>This part applies to industrial developments, creative industries or live/work buildings in industrial zones.</td>
</tr>
<tr>
<td>Part 7 – Miscellaneous Development</td>
<td>This part contains objectives and controls for certain miscellaneous development types not covered elsewhere in the DCP. It is currently divided into two parts: Child Care Centres; and Sex Industry and Adult Business Premises. Other forms of miscellaneous developments such as Telecommunication Facilities will be added to this Part at a later date.</td>
<td>This part applies to those various development types listed.</td>
</tr>
<tr>
<td>Part 8 – Heritage</td>
<td>This part provides controls and objectives relating to heritage items and heritage conservation areas.</td>
<td>This part applies to development to a heritage item or in the vicinity of a heritage item or in a heritage conservation area or in the vicinity of a heritage conservation area.</td>
</tr>
<tr>
<td>Part 9 – Strategic Context</td>
<td>This part provides objectives and controls, in addition to preceding parts of this DCP, which are specific to a particular area and guide the implementation of the desired future character for that area.</td>
<td>This part must be referred to for any development activity to understand the desired future character of the area or the site and whether there are any specific objectives or controls affecting a proposed development.</td>
</tr>
<tr>
<td>Definitions</td>
<td>This part provides definitions of certain terms used in this DCP.</td>
<td></td>
</tr>
</tbody>
</table>

### 1.1.11 Compliance with the controls and objectives

Before granting consent for development Council must consider:

- All applicable requirements of MLEP 2011;
- The objectives of this DCP;
- Compliance with the generic provisions (objectives and controls) contained in Part 2 of this DCP;
- Compliance with the relevant objectives and controls in Parts 3 to 8 of this DCP; and
• Compliance with any precinct or site specific controls in Part 9 of this DCP.

Compliance with a development control does not guarantee that the objectives and performance criteria of the DCP are satisfied. In some instances, the design solutions may not be appropriate for the particular site or situation. Therefore, having regard to the physical characteristics of the site and the nature and proximity of adjoining and nearby development, Council may require alternative design solutions.

The controls in this DCP may not normally be varied. However, if an applicant is able to clearly demonstrate that a particular control is unreasonable or unnecessary in the circumstances and that the objective of the control is satisfied, Council may consider waiving or varying the control.

Conversely, having regard to the physical characteristics of the site and the nature and proximity of adjoining and nearby development, Council may require a more restrictive control so as to minimise or eliminate any likely negative impacts.

1.1.12 Order of priority for applying controls

If there is any inconsistency between controls within the DCP, to the extent of the inconsistency, the controls are generally to be applied in the following order of priority:

1 – site-specific controls within Part 9
2 – precinct-specific controls within Part 9
3 – heritage controls within Part 8 (in some instances these will take priority)
4 – controls for specific development types within Parts 3 to 7
5 – generic controls within Part 2

However, assessment of a proposal will involve consideration of all relevant DCP objectives and controls applied collectively to the specific circumstance to achieve an appropriate development outcome.

1.1.13 Variation to development controls in the DCP

This DCP relies upon the satisfaction of objectives and compliance with development controls and best practice guidelines to shape development outcomes. It aims to allow flexibility in the application of such development controls where strict compliance with the controls is unreasonable or unnecessary. In special circumstances, flexibility can produce improved and innovative solutions for particular sites.

Variation to development controls will only be considered where written justification for each variation request demonstrates why the development control is unreasonable or unnecessary in the circumstances and that the objectives of the development control have been achieved. Any written variation request must:

1. Identify the development control subject of the variation request;
2. Identify the general and/or specific objectives of that control;
3. Justify why the specific provisions of the policy do not make appropriate provisions with regard to the subject application; and
4. Demonstrate why compliance with the provisions of this DCP is unreasonable or unnecessary in the particular circumstances of the case.
The fact that existing development may not comply with one or more of the development controls does not necessarily mean that the development control is unreasonable or unnecessary when applied to future development.

Council may use its discretion to consider a variation to the development controls contained in this DCP, particularly for proposed alterations and additions to an existing building or structure, where Council believes the proposed development is consistent with the objectives of the zone as contained in MLEP 2011 and the relevant objectives of this DCP.

1.2 The Consultation and Notification Process

This section discusses the consultation and notification process that applies to development applications, applications to modify a development consent (Section 4.55 and 4.56 of the Environmental Planning and Assessment Act (the EP&A Act) and requests to review the determination of a development application or modification application (Sections 8.2 of the EP&A Act).

1.2.1 Objectives

- **O11** To provide the opportunity for public participation in the planning process that is appropriate to the type and form of development proposed.
- **O12** To ensure a consistent, transparent and effective development assessment process.

1.2.2 Consultation with neighbours and Council

Council recommends that anyone intending to lodge an application discuss their proposal informally with neighbours prior to lodgement. It is also advisable to discuss proposals with Council staff before lodgement to ensure the correct planning policies are used in the design process and to obtain information about the lodgement and assessment process. Processes for consulting with Council staff are provided under Section A.3.2 and Section A.3.3.

1.2.3 Proposals not requiring notification

Council will not notify or advertise applications for proposals which in its opinion are unlikely to have any impact on the locality. See Table 1.

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>CRITERIA</th>
<th>EXAMPLES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exempt development</td>
<td>• Nil</td>
<td>• Nil</td>
</tr>
<tr>
<td>Complying development applications</td>
<td>• Nil</td>
<td>• Nil</td>
</tr>
<tr>
<td>Minor works applications</td>
<td>• Nil</td>
<td>• Nil</td>
</tr>
<tr>
<td>Development applications for internal building work associated with a residential use</td>
<td>• Nil</td>
<td>• Demolition or construction of internal walls • Change in the configuration of rooms</td>
</tr>
<tr>
<td>Development applications for internal building work associated with a non-residential use</td>
<td>• Will not significantly increase the intensity or impact of the use on the locality</td>
<td>• Fire safety upgrade work • Renewal of internal fixtures such as bathrooms</td>
</tr>
<tr>
<td>DESCRIPTION</td>
<td>CRITERIA</td>
<td>EXAMPLES</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Development applications for minor alterations affecting the exterior of a building</td>
<td>• Will not reduce the privacy or the amount of sunlight enjoyed by any adjacent residential properties; or • Will not adversely affect the streetscape</td>
<td>• Replacement of existing windows; or • Restoration work</td>
</tr>
<tr>
<td>Subdivision applications for existing or approved buildings</td>
<td>• Nil</td>
<td>• Strata subdivision of an existing residential flat building</td>
</tr>
<tr>
<td>Development applications to fit out or renovate an existing retail, commercial or industrial premises</td>
<td>• Existing use is not materially altered or intensified</td>
<td>• Refurbishment of an existing takeaway food and drink premises</td>
</tr>
<tr>
<td>Development applications to change the use of premises from a:</td>
<td>• Proposed hours of operation do not exceed 7.00am to 7.00pm; and • Property is not in a residential zone; and • Proposed use is not likely to have a significantly greater impact on the locality than the last approved use</td>
<td>• Change from newsagent to clothing shop; or • Change from office for an export agent to office for an accountant; or • Change from food processing to furniture manufacture</td>
</tr>
<tr>
<td>• shop to a shop or similar use; or • an office premises to an office premises or similar use; or • industry to an industry or similar use; or • light industry to a light industry or similar (except sex services premises, restricted premises and other sex industry related uses)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development applications for demolition, except in Heritage Conservation Areas or for heritage items</td>
<td>• Building(s) are not located on a boundary; and • Building to be demolished is not an entire dwelling house or is not greater than 100m² in area</td>
<td>• Demolition of a shed</td>
</tr>
<tr>
<td>Development applications for works to trees within Heritage Conservation Areas, except where the tree is a heritage item or located within the curtilage of a heritage item</td>
<td>• Nil</td>
<td>• Tree removal and/or pruning</td>
</tr>
<tr>
<td>Applications to modify a consent under Section 4.55 of the EP&amp;A Act</td>
<td>• Will not significantly alter the intensity or likely impact of the proposal</td>
<td>• Changes to internal configuration; or • Modification of a condition regarding payment of fees</td>
</tr>
<tr>
<td>Requests to review a decision on a development application under Section 8.2 of the EP&amp;A Act</td>
<td>• No significant amendments made to plans or no new information submitted; or • Will not significantly alter the intensity or likely impacts of the original proposal</td>
<td>• Request to be reconsidered in its original form after having been refused by staff</td>
</tr>
<tr>
<td>Requests to review a decision on a Section 4.55 application under Section 8.2 of the EP&amp;A Act.</td>
<td>• No significant amendments made to plans or no new information submitted; or • Will not significantly alter the intensity or likely impacts of the original proposal</td>
<td>• Request to be reconsidered in its modified form after having been refused by staff</td>
</tr>
<tr>
<td>Applications that are rejected due to inadequate information</td>
<td>• Nil</td>
<td>• Essential information not submitted with an application</td>
</tr>
<tr>
<td>Minor amendments to applications that have not been determined</td>
<td>• Changes result in a reduced or similar impact on neighbours</td>
<td>• Proposed balcony deleted; or • Internal configuration of rooms altered</td>
</tr>
</tbody>
</table>

NB Council has the discretion to notify any applications for the above types of development where considered appropriate.
1.2.4 Proposals requiring notification

Council will notify applications which do not fall into the categories in Table 1. These include development applications, applications to modify development consent (Section 4.55 and 4.56 of the EP&A Act) requests to review the determination and decision of an application (Section 8.2 of the EP&A Act).

1.2.5 Notification standards

The minimum standard for notification of development applications is:

- Sending a written notice to adjoining property owners and occupiers and property owners and occupiers directly across a street or road. Council will rely on its property system at the time of compiling the notice to identify the owners of the land;
- Placing a notice on the site;
- Adhering to a 14 day notification period (the 14 day period is extended to 21 days during Easter and Christmas); and
- Listing the application in a local newspaper.

The above process may be varied at the discretion of Council to permit:

- Notifying properties beyond adjoining properties;
- Extending the notification period;
- Listing the application in a local newspaper;
- Exhibiting plans at other public venues;
- Holding a public meeting;
- Consulting with relevant community groups; and/or
- Altering the advice contained in the written notice.

NB All forms of notification will provide Council contact details and information about where and when the application documents can be viewed.

1.2.6 Notification by letter

The extent of properties notified by letter will vary at the discretion of Council depending on the nature and scale of the development. Adjoining properties (properties that share a boundary with the subject site) and properties that may be directly affected by way of loss of privacy, overshadowing, increased building bulk, noise and the like will be notified as a minimum.

Notification letters will be sent to the owners of identified properties and the occupant if the owner is not resident at the property. For strata titled buildings that are notified, letters will be sent to all owners and occupants.

Where a development is proposed near the boundary of an adjoining local government area (LGA) and there may be an impact on residents in that area, the adjoining council will be advised of the proposal in writing and offered the opportunity to comment. In the case of a major development, Council may ask the adjoining council to notify its residents individually.
1.2.7 Notification letter inclusions

Notification letters will invite owners and residents to view the application and make written submission within 14 days. The letters also cover how submissions are handled, Council’s decision making processes and a Council contact name and phone number.

The letters will include a written description of the proposal. Relevant information lodged with the application (and that is not subject to restrictions under other legislation) will be available for viewing at Council’s administration centre and on Council’s website during the notification period.
1.2.8 Site notice

The site notice will be installed on or before the start of the 14 day notification period unless there are exceptional circumstances such as extreme bad weather. Council will replace a site notice if the contact officer for the application is advised by that it has been removed or damaged during the first week of the notification period. Unauthorised removal of the sign does not require the 14 day period to start again or make the notification process void.

1.2.9 Newspaper notice

The notice placed in a local paper (currently Inner West Courier) will provide the address and a brief description of the application. Due to the sometimes protracted period of time required to schedule advertisements in newspapers and to avoid delays the notice will not offer a 14 day period for submissions. The notice will advise citizens to visit Council’s website or administration centre to view the application.

Where legislation requires particular proposals to be advertised in a newspaper in a specific manner, the requirements of the relevant legislation will be followed instead of this guideline. Developments defined under the EP&A Act as designated, advertised or State significant fall into this category and are currently required to be advertised for 30 days.

1.2.10 What to include in a submission

A submission must contain the name and address of the person making the submission and the address of the property that is the subject of the development application or to the development application number. A submission can be made by anyone, though must clearly state any grounds of objection and the reasons for them, and must be in writing.

Under the laws that govern development assessment, Council can only take into account general environmental impacts including overshadowing, privacy, traffic, streetscape or noise when determining an application. Matters such as the personal circumstances of individuals cannot be taken into account.

1.2.11 How Council deals with a submission

Council will accept and consider written submissions made within the period indicated in notification letters and the site notice. Submissions received after this time will be considered if the assessment of the application has not been substantially completed at the time of receipt.

In the majority of cases, any submissions to a development application are accessible to other parties, pursuant to the Government Information (Public Access) Act 2009 and cannot be kept confidential. A person making a submission may include their name and address but request under Section 739 of the LG Act, the General Manager of Council prepare any public material so as to omit the person's place of living. This provision is only available if the person considers that disclosure places the personal safety of the person or members of the person's family at risk and must be verified by a statutory declaration.

All individual submissions will be acknowledged in writing and the head petitioner will be sent an acknowledgement letter in the case of petitions.
1.2.12 Following the progress of an application

Council deals with over 1,000 applications each year. It is difficult to keep all interested parties informed. Anyone wishing to be kept informed of the progress of an application should initiate contact with the Council officer dealing with the application.

All persons who made submissions (and head petitioners) will be advised in writing of Council’s decision after the application is determined.