

A photograph of a modern, multi-story apartment building with a light-colored facade and dark window frames. The building features numerous balconies with glass railings. In the foreground, there are palm trees, a paved plaza, and a few people walking. A large tree with dense foliage is visible on the right side of the building. The overall scene is bright and clear.

Section 4

Development Types

4 Development Types

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Introduction

This Section establishes provisions for certain types of developments including: Single dwellings, terraces and dual occupancies; residential flat, commercial and retail developments; industrial developments; boarding house; child care centres; visitor accommodation etc.

All development proposals must reference the provision or provisions that best describes that type of development.

4.1

Single Dwellings, Terraces and Dual Occupancies

This Section applies to single dwellings, terraces and dual occupancies.

Not all provisions within this Section apply to the Rosebery Estate. Refer to Section 5.6 Rosebery Estate, Rosebery, of this DCP for additional provisions relating to single dwellings, terraces and dual occupancies in the Rosebery Estate, which take precedence if the provisions are inconsistent with those in this Section.

4.1.1 Building height

The following objectives and provisions relate to the height in storeys and the street frontage height in storeys. These controls work together with the building height in metres control in the *Sydney Local Environmental Plan 2012* which establishes the maximum permissible height for every property.

The street frontage height control is not identified for all areas and is defined in the locations where the street frontage height needs to be maintained for streetscape amenity and consistency.

The height in storeys control works with the maximum height in metres control to ensure development relates to the character of a neighbourhood and streetscape. The maximum height in metres allows for expressive pitched roofs or roof structures, such as enclosed plant or lift overrun, in addition to the number of storeys. Figure 4.2 demonstrates the relationship between the controls on a typical terrace building with a pitched roof. The difference between the height in storeys and maximum height does not imply that an additional storey is permitted or that there is a mismatch in controls

Definitions

Street frontage height in storeys is the vertical height of the part of the building closest to the street boundary and does not apply to laneways. Refer to Figure 4.1 *Street frontage height*.

Figure 4.1
Street frontage
height

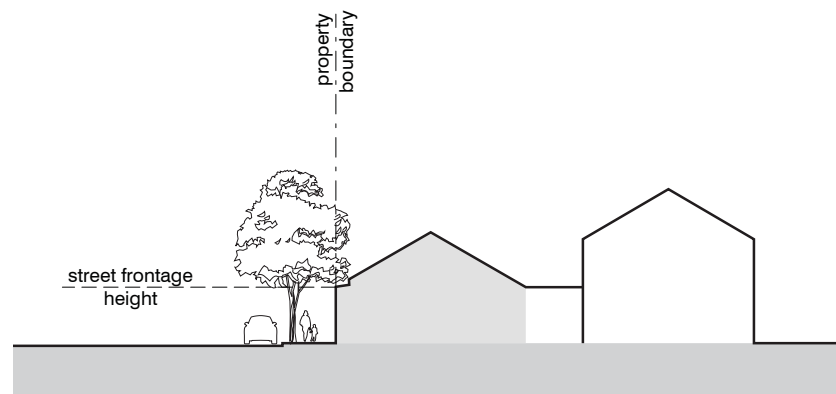


Figure 4.2
Relationship
between height
in metres control
in Sydney LEP
2012 and height
in storeys control
shown for a typical
two storey terrace

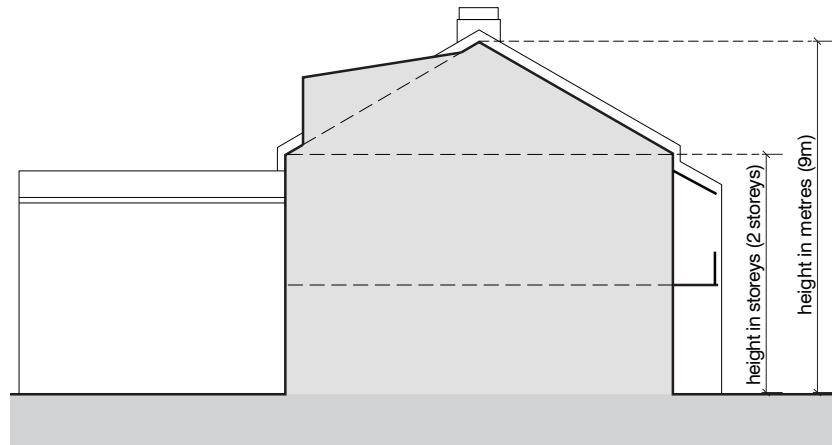
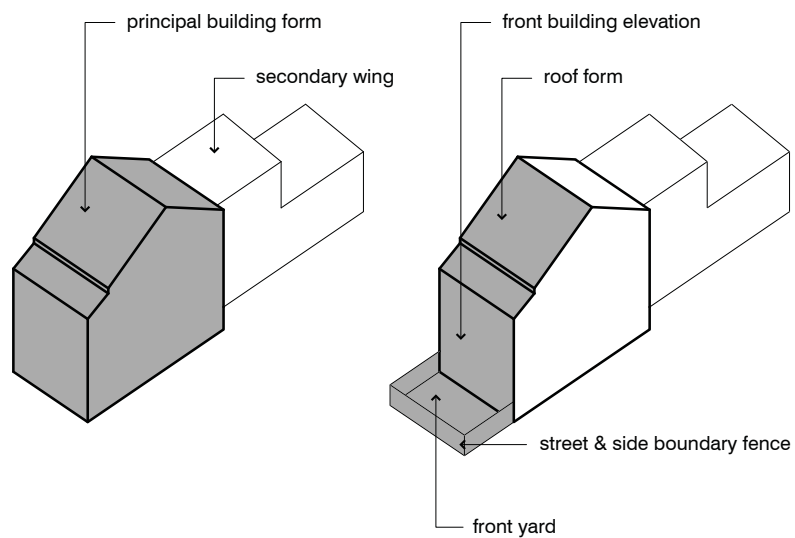


Figure 4.3
Retain and conserve
the principle built
form



Objectives

- (a) Ensure development reinforces the existing and desired neighbourhood character with an appropriate height in storeys and street frontage height in storeys.
- (b) Ensure development in heritage conservation areas relate to the existing neighbourhood character in terms of height in storeys and street frontage height in storeys.
- (c) Retain and conserve the principle building form and its relationship to the street for heritage items and contributory buildings in heritage conservation areas.

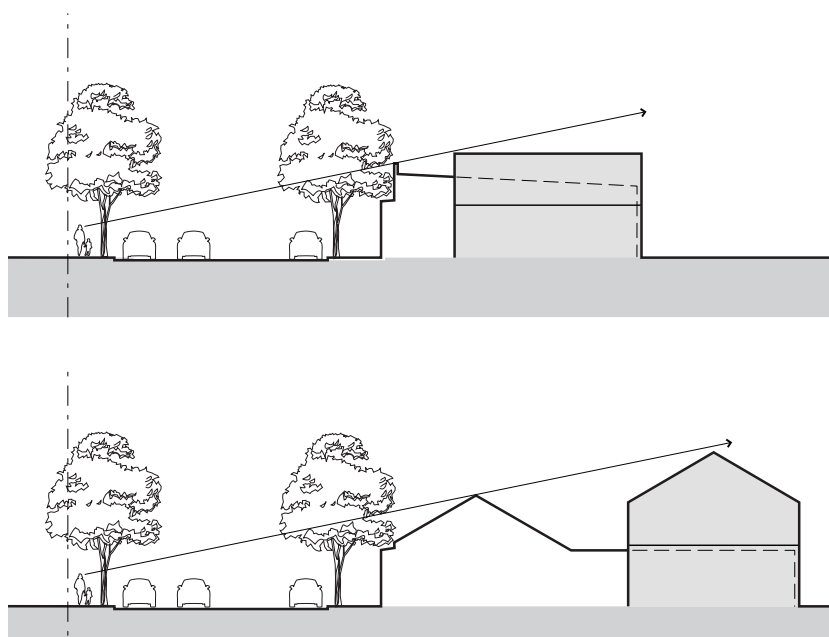
Provisions

- (1) Development is not to exceed the maximum number of storeys as shown on the *Building height in storeys map*. The maximum may only be achieved where it can be demonstrated that the proposed development:
 - (a) reinforces the existing and desired neighbourhood character;
 - (b) is consistent with the character, scale and form of surrounding buildings in heritage conservation areas; and
 - (c) does not detract from the character, and significance of the existing building.

- (2) The street frontage height of a building must not exceed the maximum height shown for the street frontage on the *Building street frontage height in storeys map*.
- (3) Where the *Building street frontage height in storeys map* does not indicate the maximum height, the maximum street frontage height is to generally be consistent with the street frontage heights of adjacent buildings, or the predominant street frontage height in storeys in the vicinity of the proposed building.
- (4) In a heritage conservation area, an additional storey must not be visible above the ridge line or parapet of the existing building on the primary street frontage as shown below in Figure 4.4.
- (5) The cutting of a sloping site is to minimise excavation. For sites that slope to the rear where the ground floor is raised above street level, the area of blank retaining fences and walls fronting the public domain is to be minimised.

Figure 4.4

Additional storeys viewed from the street. These examples demonstrate how a single storey building fronting the street may have two storeys behind



4.1.2 Building setbacks

Objectives

- (a) Ensure that new development relates to the existing setback patterns.
- (b) Maintain the setting of heritage items and of buildings within a Heritage Conservation Area.

Provisions

- (1) Front setbacks are to be consistent with the *Building setbacks map*. Where no front setback is shown on the map, the front setback is to be consistent with the predominant setting in the street.
- (2) Within heritage conservation areas, new development is to relate to the established development pattern including the subdivision pattern, front, side and rear setbacks.
- (3) A greater front, side or rear setback may be required for development within the vicinity of a heritage item in order to maintain the visual setting of the heritage item. This is to be determined on a site by site basis.

- (4) New development and alterations and additions must respect and be sympathetic to the predominant rear building line.
- (5) Corner buildings are to be built to the street boundary in areas where corner buildings are typically built to the street boundary on one or more frontages.

Figure 4.5

An example of new development that relates to the existing setback pattern



4.1.3 Residential amenity

The following objectives and provisions will ensure high quality residential amenity for dwellings.

Objectives

- (a) Maintain or enhance residential amenity by ensuring adequate solar access, landscaping, deep soil planting, visual and acoustic privacy and ventilation.
- (b) Reduce urban heat load and increase canopy coverage and ground absorption of water.

4.1.3.1 Solar access

Objectives

- (a) Buildings are to be designed and sited to provide solar access to:
 - (i) private open space within the site and of adjoining dwellings;
 - (ii) habitable rooms within the development and in adjoining developments;
 - (iii) public open space including bushland reserves; and
 - (iv) solar collectors of adjoining development.

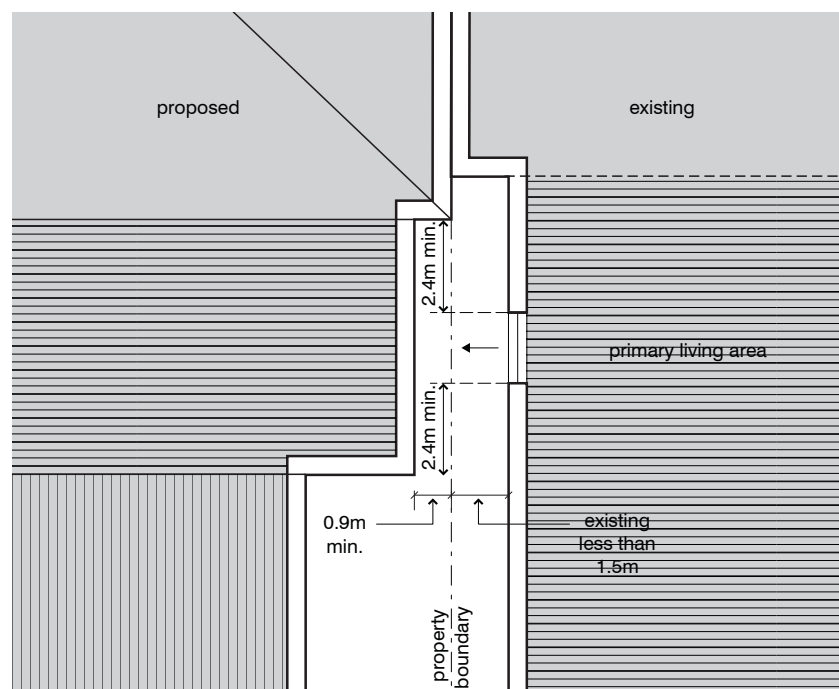
Provisions

- (1) Development sites and neighbouring dwellings are to achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and at least 50% of the minimum amount of private open space.
- (2) New development must not create any additional overshadowing where solar access is less than two hours between 9am and 3pm on 21 June. This control does not apply to windows on a side boundary or windows only separated from a side boundary or passageway.

- (3) The development application is to include diagrams in plan and elevation that show the shadow impact of the proposal at 9am, 12 noon, and 3pm at midwinter.
- (4) Address solar access by:
 - (a) optimising orientation and placement of windows and habitable rooms;
 - (b) providing skylight or clerestory windows to improve solar access and provide shared light to poorly lit parts of a dwelling; and
 - (c) locating non-habitable rooms, such as service areas and circulation areas on the south side of the buildings where possible.
- (5) Overshadowing of windows along side boundaries by new development is permissible, except in the circumstances within provision (6) below.
- (6) Daylight access is to be addressed where:
 - (a) the side windows of an adjoining dwelling are facing and/or perpendicular to the boundary and are less than 1.5m from the side boundary; and
 - (b) the side windows in (a) are the only windows to the primary living area of a neighbouring dwelling;

then the proposed development is to be set back by a minimum of 900mm (inclusive of gutters and eaves) from the boundary opposite these windows extending for a minimum distance of 2.4m to either side of these windows. Refer to Figure 4.6.
- (7) Generally, the depth of a habitable room should not exceed 10m from the openings that receive daylight.
- (8) Extensive glazing that is unprotected from mid-summer sunlight is to be avoided. The reliance upon high performance tinting or glazing as a mid-summer sun control device instead of shading devices is not appropriate.

Figure 4.6
Daylight access to
primary living areas
of existing dwellings



4.1.3.2 Solar collectors

- (1) The use, location and placement of photovoltaic solar panels is to take into account the potential permissible building form on adjacent properties.
- (2) Where possible, proposals for new buildings, alterations and additions to buildings or major tree plantings are to maintain solar access to existing photovoltaic solar panels having regard to performance, efficiency, economic viability and reasonableness of their location. A development proposal may be modified to protect solar access to existing solar collectors.

4.1.3.3 Landscaping

- (1) A landscape plan may be required to be prepared and submitted with the development application concerning heritage items. The landscape plan is to be prepared by a landscape architect experienced in dealing with heritage gardens and at a minimum is to include:
 - (a) the retention of original and or significant landscaping (including plants with direct links or association with the heritage item);
 - (b) reinstatement of significant landscape features and plantings that have been removed; and
 - (c) details of how new plantings retain significant views to and from the heritage item.
- (2) Natural features such as cliff lines and rocky outcrops, are to be retained.
- (3) Existing trees are to be retained and protected by locating paved areas, underground services such as water tanks and detention tanks and external structures where there will be minimum impact on the growing conditions needed by those trees.
- (4) Landscaping is to include permeable surfaces to assist with on-site management of stormwater.
- (5) Generally, landscaping is to limit turf and give precedence to species with low water needs, include native plant species. Select and position trees and shrubs to manage sun access and wind impacts.

4.1.3.4 Deep soil planting

For the purposes of this provision 'deep soil area' is an area of natural ground with relatively natural soil profiles and it excludes areas above a structure, pools and non-permeable paved areas.

- (1) For lots greater than 150sqm, the minimum amount of deep soil is to be 15% of the site area. The deep soil area can include porous paving of up to 1.2m wide providing there is a deep soil area on one side level with the paved area.
- (2) Where site conditions allow, the deep soil area should be consolidated to one location on site for effective planting and to assist with detention of stormwater.

4.1.3.5 Private open space

- (1) Private open space at the ground level is to have a minimum area of 16sqm and minimum dimension of 3m.
- (2) Private open space is to be directly accessible from the living area of the dwelling and capable of serving as an extension of the living area.

4.1.3.6 Visual privacy

- (1) Development is to maximise visual privacy to side and rear boundaries through the following measures:
 - (a) offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;
 - (b) building to the boundary where appropriate;
 - (c) setting back the first floor from the side boundary;
 - (d) providing sill heights of 1.4m above finished floor level; and
 - (e) screening devices such as landscaping, fencing, obscure glazing, timber screens, external ventilation blinds or window hoods and shutters.
- (2) Screening devices such as obscure glazing, timber screens, external ventilation blinds, window hoods and shutters are to be at least 60% obscure, permanently fixed and made of durable material.

4.1.4 Additions and alterations

Additions to a building generally consist of adding more rooms or extending the floor area. The potential for additions is dependent upon the size of the site, the context of the building, heritage significance of the building and the impact upon neighbouring properties and the wider area.

This Section includes objectives and provisions for additions and more specific examples of addition types. The illustrations show examples of additions to a terraced property however, the types of additions detailed may also be appropriate for other forms of development.

Objectives

- (a) Achieve sympathetic development and maintain the fabric of existing terraces.
- (b) Protect and respect the traditional character and heritage significance of heritage items and heritage conservation areas and contributory buildings by:
 - (i) ensuring additions are of an appropriate scale and appearance and relate to the scale and character of the existing building and the street;
 - (ii) minimising alteration of the original building and respecting the uniformity of an intact pair, group or row of buildings.

Provisions**4.1.4.1 General**

- (1) Additions must not remove significant building or site elements or outbuildings that contribute to the heritage significance of the heritage item or conservation area.
- (2) Additions must maintain the profile and form of the original building, including the roof form, and allow the original building to be discerned.
- (3) Additions must not extend beyond the predominant rear building alignment at any level of a group or row of buildings.

4.1.4.2 Lean-to additions

Lean-to additions are the most traditional form of rear extension and are suitable for most buildings.

- (1) Generally, lean-to additions are to have a skillion roof with a low pitch falling away from the main building as shown in Figure 4.7 *Example of a lean-to addition*.

4.1.4.3 Wing additions

Wing additions allow for larger floor areas and ceiling heights.

- (1) The roof pitch of a wing addition is to respect the roof pitch and gutter line of the existing building sloping to the side as shown in Figure 4.8 *Example of a wing addition*.
- (2) Wing additions must respect characteristic detailing of the existing building.

Figure 4.7
Example of a
lean-to addition

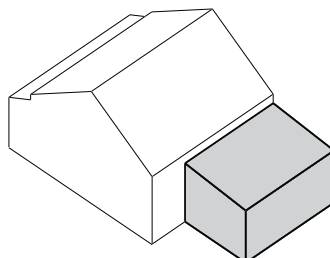
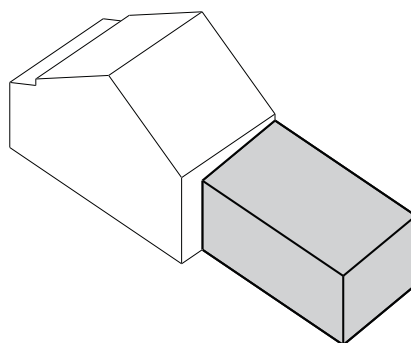


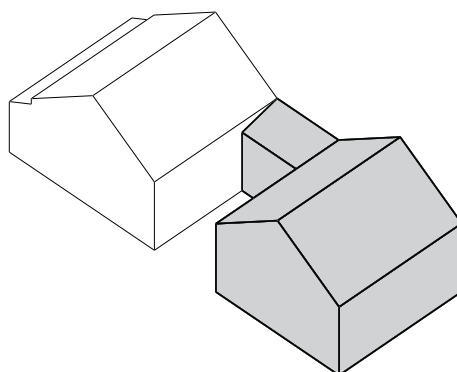
Figure 4.8
Example of a wing
addition

**4.1.4.4 Pavilion additions**

Pavilion additions offer design flexibility and are often suited to buildings of heritage significance or in situations where it is best to leave the existing building intact.

- (1) The roof pitch of pavilion additions must respect the roof pitch of the existing building, and be suitable to the particular building and its setting as shown in Figure 4.9 *Example of a pavilion addition*.
- (2) The element that links the pavilion extension to the existing building is to be of low scale and minimise the impact on significant building fabric as shown in Figure 4.9 *Example of a pavilion addition*.
- (3) The roof of a pavilion addition is not to accommodate a roof terrace or useable open space.

Figure 4.9
Example of a
pavilion addition



4.1.4.5 Basement additions

Basement additions may be suited to sloping sites and sites where basements can be accommodated with minimal excavation.

Applications that propose basement additions may be required to provide a Structural Report to confirm that the proposed excavation will not adversely affect the building or adjoining properties. The report should be provided as part of the development application.

- (1) External entrances and exits to basement additions are to be located to the rear, except where a front or side entry or exit is prevalent in the street.
- (2) Windows and light wells are to match the details and layout of those on the existing building and adjacent buildings where possible.

4.1.4.6 Additional storeys

Upper floor additions to the rear that retain the main form of a building and do not exceed the main roof ridge height are generally more acceptable than changes that alter the height, scale or form of the original building.

Refer to the *Street frontage height in storeys map* to determine the street frontage height in storeys.

Converting an existing roof space for a useable attic is not an additional storey.

- (1) Additional storeys to the main building or street frontage are generally not supported where:
 - (a) a building is part of an intact group or streetscape;
 - (b) the existing building height is comparable to a consistent or predominant building height in the streetscape; or
 - (c) the character of an area is part of its heritage significance and the additional storey would compromise the character.
- (2) Additional storeys are to respect the height of the parapet or ridge line of immediately adjoining buildings.
- (3) Additional storeys located behind parapets to buildings with flat or skillion roofs are only appropriate where the addition:
 - (a) will not be visible from the surrounding streets and lanes, and
 - (b) will not have an adverse impact upon the uniformity of a group, row or semi-pair of buildings.
- (4) Where the rear of a terrace group displays a consistent form and strong rhythm visible from a public space, additions are restricted to the ground floor.

4.1.5 Roof alterations and additions

Roof additions include rear roof extensions and dormer windows. Roof additions should be designed to permit the original roof form, slope and ridge of the building to be easily discerned, and should not overwhelm the integrity of a contributory building.

Objectives

- (a) Minimise the impact of dormers and skylights on the form, appearance and fabric of the principal roof form.
- (b) Ensure dormers to Victorian and Federation period terraces are traditional in form, proportions, scale and material.
- (c) Minimise interference to the original form of the building.

- (d) Minimise the impact on original and existing building elements.
- (e) Retain original roofing materials on heritage items and contributory and neutral buildings in heritage conservation areas.

4.1.5.1 Ensuring sympathetic roof alterations and additions

- (1) Roof alterations and additions must:
 - (a) complement the details and materials of the original roof;
 - (b) not detract from the architectural integrity of the principal elevation of a heritage item, contributory building, or an intact group of buildings in a heritage conservation area; and
 - (c) respect the form, pitch, eaves and ridge heights of the original building.
- (2) Roof additions are to be set below the ridge line to allow the original form of the main roof to be clearly discerned.
- (3) The existing ridgeline of the building is to be maintained and not raised to accommodate a roof addition.
- (4) Roof additions are not to include inset balconies, roof terraces or external staircases.
- (5) Roof additions are not permitted on buildings with front or side parapets where the addition will adversely affect the silhouette of the parapet line.
- (6) Windows in roof extensions must relate to the proportion and orientation of original windows in the building.

Figure 4.10

Examples of additions to terraces houses, demonstrating appropriate building forms

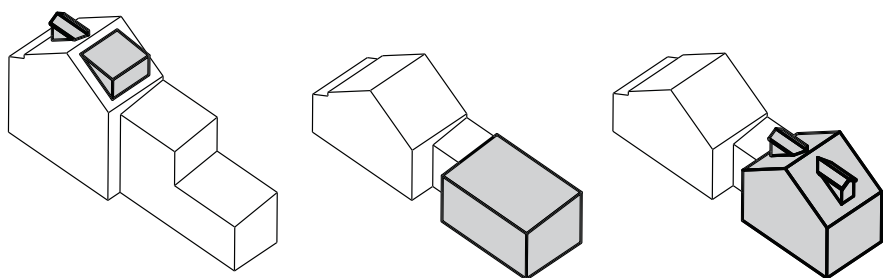
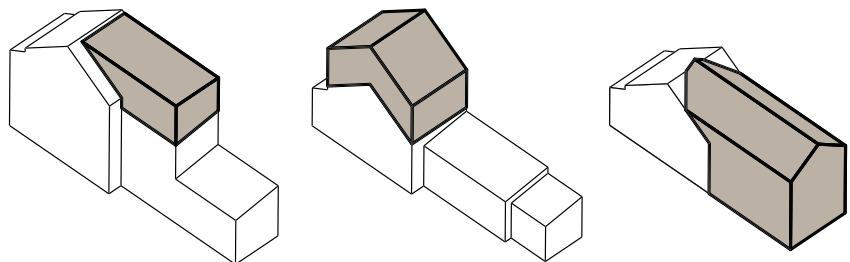


Figure 4.11

Examples of additions to terraced houses, demonstrating inappropriate building forms



4.1.5.2 Roof features

- (1) On heritage buildings and contributory and neutral buildings in heritage conservation areas:
 - (a) chimneys, and chimney detailing, are to be retained, even where fireplaces are no longer working;

- (b) significant or original roof features, such as gables and finials, are to be retained; and
 - (c) missing significant or original roof features are to be reinstated when major works to the roof are proposed.
- (2) Solar water heater storage tanks, ventilators, wind generators, air conditioning units and satellite dishes and antennae are not to be located on the principal roof elevations of heritage items or buildings in heritage conservation areas.
 - (3) Solar collector panels may be located on roof plane visible from the public domain where they are parallel to the roof plane, there is minimal change to structure or fabric of the roof, removable and do not exceed 25% of the area of the roof plane.
 - (4) Notwithstanding provision (3), the installation of solar collectors and photovoltaic panels are not acceptable if it results in adverse impacts on the subject building and the streetscape.

4.1.5.3 Roof materials on heritage buildings and in heritage conservation areas

Roofing materials include the roof covering, details, joinery and plumbing features. The appearance of a building can be significantly influenced by the form and profile of roofing materials, including the detailing of eaves and ridgelines. Where re-roofing is proposed on heritage items and buildings in heritage conservation areas, this should be based on evidence of the traditional form and materials of the existing building.

The original presentation to the street can be maintained and enhanced by transferring good tiles or slates from side and rear elevations to the front elevation, or through the use of second-hand materials with a similar aging pattern to the original material. Corrugated galvanised steel in an unpainted finish or dark tone may be suitable where corrugated iron requires replacement.

- (1) Original roofing materials on heritage items and contributory and neutral buildings in heritage conservation areas are to be retained, unless it can be demonstrated that significant deterioration has occurred and repair is not practical.
- (2) New materials are to match original materials as closely as possible in terms of the colours, materials, finishes, sizes and profiles. Where contemporary materials are proposed, they are to be compatible with the period or architectural style of the building.
- (3) Where an application proposes re-roofing a building, the applicant may be required to reinstate a traditional verandah or balcony roof.
- (4) Reinstate appropriate roofing materials and detailing, original separate verandah or balcony roofs and exposed party walls above roofs.

4.1.5.4 Traditional front dormers

Dormer windows are vertically proportioned windows providing natural light and ventilation to an attic room. Due to their limited size and traditional detailing they may be appropriate on the front plane of the roof in very limited circumstances. If the primary function of the dormer is to provide additional headroom, it will be considered under the provisions for roof extensions, and is only appropriate for the rear of the building.

- (1) Front dormer windows are not permitted on:
 - (a) the front roof of buildings within the Lang Road and Martin Road Heritage Conservation Areas; or
 - (b) buildings where the roof pitch is shallow; or

- (c) buildings with a scale, style or architectural character not suited to dormer windows; or
 - (d) sections of roof with gable ends.
- (2) Dormer windows are not permitted unless there is an established pattern of dormer windows on adjacent properties that form a consistent row or group and the proposed front dormer windows match those in the row. Exceptions will only be supported where the detailing, materials and proportions are traditional and will serve as an appropriate precedent for adjoining properties.
- (3) When the width of the building is:
 - (a) less than 6m wide, one dormer window is preferred, except where there is a predominant two dormer precedent along the row. The width of one dormer window must not exceed one third of the width or the roof up to a maximum of 1.3m, including the width of the frame, refer to Figure 4.12; and
 - (b) greater than 6m wide, two dormer windows may be considered, except where there is a predominant single dormer precedent along the row. The width of any dormer is not to be more than 1.3m, refer to Figure 4.13.
- (4) The existing pitch or ridge height of a building must not be altered to accommodate a dormer.
- (5) Dormer windows are to be proportioned at a height to width ratio of between 1.5 to 1 and 2 to 1 measured from head to sill of the window frame, and placed symmetrically on the roof. Refer to Figure 4.14.
- (6) The total width of the architraves must not exceed 140mm.
- (7) Dormer windows must not include finials and decorative fretworks, unless documentary or physical evidence showing the original detail is available.
- (8) The apex of the gable or top of the dormer roof is to be at least 200mm below the ridge height of the main roof. Refer to Figure 4.15.
- (9) The top of the dormer window sill must be set at least 400mm above the finished floor level. Refer to Figure 4.15.
- (10) Depending on the period and architectural style of the building, the window frame within the dormer window is to be timber framed and a single sash, double hung or double casement type.
- (11) Dormer windows must not include windows or skylights to the side walls or within the apex of the gable.
- (12) The external side walls of dormers are to be of timber weatherboards of a profile and section consistent with the period and style of the building.
- (13) A curved dormer window is only appropriate where ground floor windows have a curved head, and there is no established pattern of gabled dormers in the vicinity of the site.
- (14) Plans for dormer windows must be submitted at a scale no smaller than 1:50.
- (15) Dormer windows are not to be fitted with external louvers, shutters or other external shading devices. Shading control measures are to be internal only.

Figure 4.12

Single dormer window on a building less than 6m in width

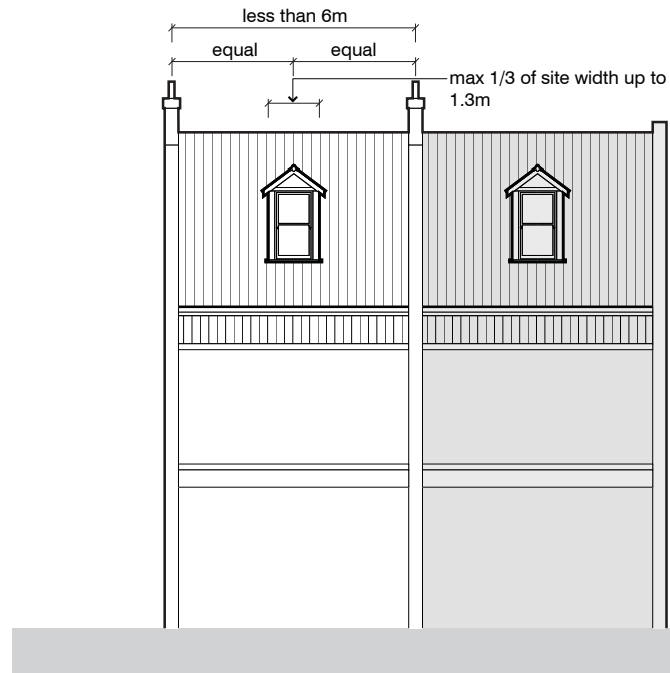


Figure 4.13

Two dormer windows on a building more than 6m wide

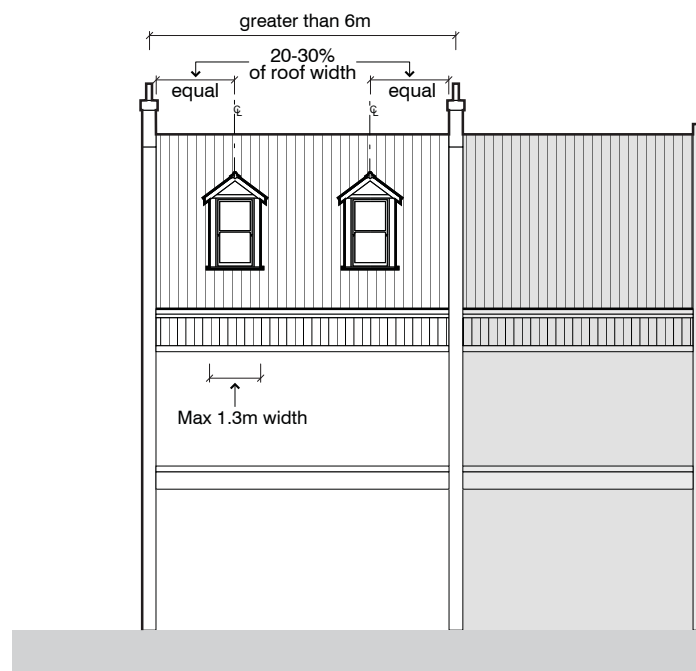


Figure 4.14

Proportion and ratio of a dormer window and dormer window details

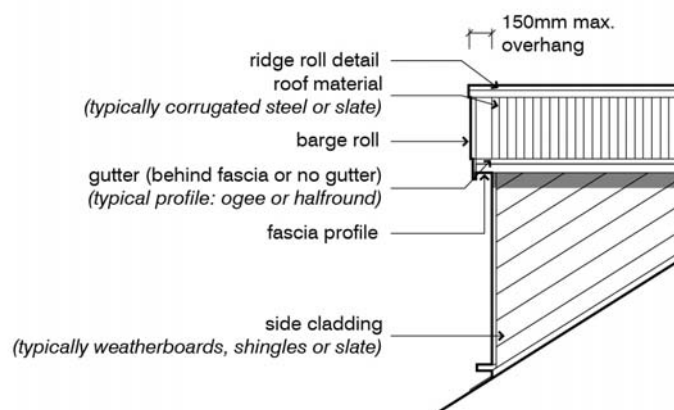
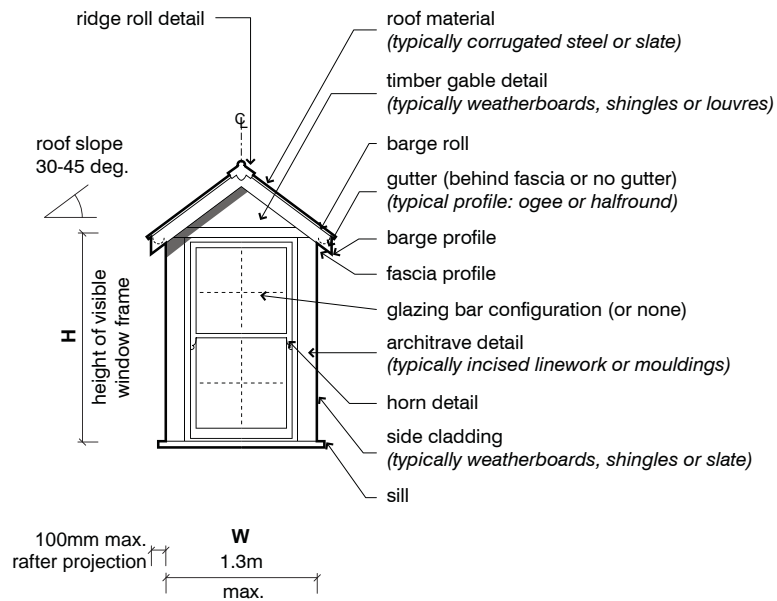
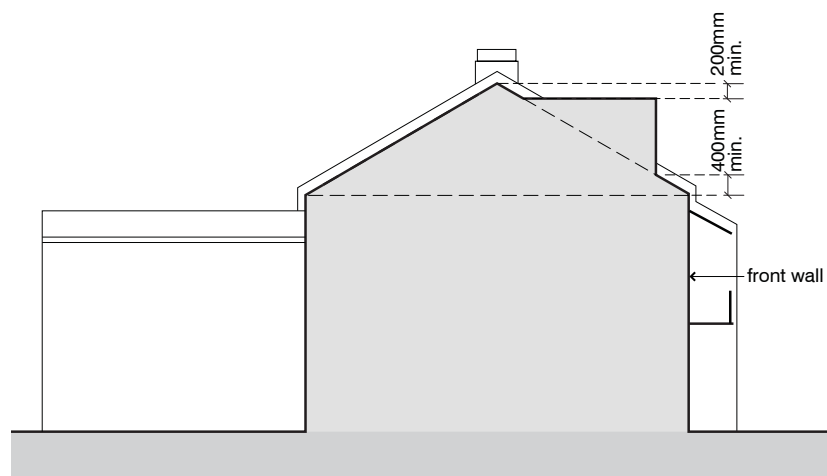


Figure 4.15

The apex of the gable or top of the dormer roof is to be at least 200mm below the ridge line of the main roof



4.1.5.5 Rear roof extensions

Rear roof extensions are usually large structures with horizontal proportions and skillion roofs. They are typically used to increase useable space and headroom within a roof space or attic, and to provide natural light and ventilation. The design of rear roof extensions needs to consider impacts on the building's heritage significance, particularly where it is part of an intact pair or row. This is particularly important where the rear elevation is visible from an adjoining public place such as a reserve, square, major street or laneway.

In the case of buildings greater than 5m in width, multiple traditional dormer windows may be a more appropriate solution than a single rear roof extension.

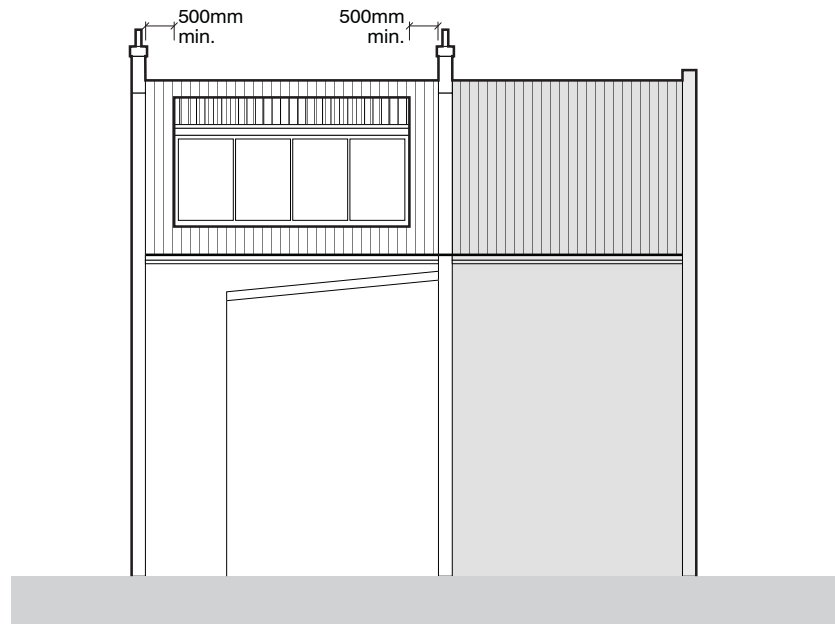
Provisions

- (1) Rear roof extensions may not be appropriate:
 - (a) on a heritage item where the skillion form will adversely impact on the building's significance;
 - (b) where it replaces traditional dormers that are a consistent feature of a pair, row or group;
 - (c) where there is no established pattern of rear roof extensions;
 - (d) on sites where the rear of the roof is highly visible from a public place. In these instances a traditional dormer form may be permitted; and
 - (e) where rear roof forms in the immediate locality are highly intact.
- (2) Rear roof extensions are to be:
 - (a) set back a minimum of 500mm from side walls as measured from the inner edge of the buildings side or party walls as shown in Figure 4.16;
 - (b) set back a minimum of 200mm from the rear wall as measured along the roof plane from the outer face of the rear wall as shown in Figure 4.17.
 - (c) set down a minimum of 200mm below the ridge line as measured along the roof plane from the ridge as shown in Figure 4.17, except in the following circumstances where no set down may be acceptable:
 - (i) where the rear roof junction cannot be viewed from a rear lane, street or public way; or
 - (ii) where it is required to match an appropriately designed precedent on an immediately adjoining property; or
 - (iii) where it relates to a small terrace (generally less than 4.2m wide) where there is minimal roof space and the set down would make the ceiling head height generally unusable.
- (3) Rear roof extensions are to use skillion or single pitch roofs sloping down from the ridge towards the rear elevation of the property as shown in Figure 4.17.
- (4) The design of the rear roof dormer window is to be vertically proportioned with suitable proportioned timber frames.
- (5) The external width of the roof attic including side walls and roof is not to exceed 4000mm.
- (6) Flashing or waterproofing of rear roof extensions must not span the roof ridge and are not to be visible from the street to the front of the building.
- (7) Windows are to be traditionally proportioned, timber frame, double hung or casement windows.
- (8) Windows located on rear roof extensions must contain fixed, opaque glazing, up to a sill height of 1.4m above the floor level.

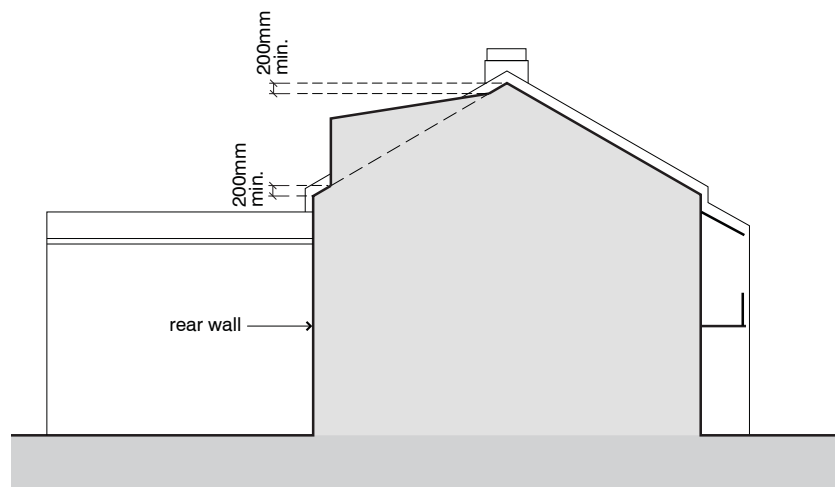
- (9) Windows to bathrooms must contain fixed, opaque glazing up to a sill height of 1.4m.
- (10) Where a traditional dormer to a rear roof extension is preferred, it is to comply with the design controls for front dormers.

Figure 4.16

Rear roof extensions are to be set in by a minimum of 500mm from side walls

**Figure 4.17**

Rear roof extensions are to be set down a minimum of 200mm below the ridge line and a minimum of 200mm up from the rear wall



4.1.5.6 Skylights

Skylights are a simple and cost effective way to increase natural light and ventilation to an attic or roof space.

Provisions

- (1) Skylights are not to be located on the front roof plane of heritage items or buildings in heritage conservation areas where they are visible from the public domain.

When the width of the property is:

- (a) less than 6m wide, one skylight is preferred. Two skylights will be considered when they relate to the pattern of openings on the building below. Where only one skylight is possible it is not to exceed one third of the width of the roof up, to a maximum of 1300mm; and

- (b) greater than 6m wide, two skylights are permissible, except where there is a predominant single skylight precedent along the row. The width of any one skylight must not be more than one fifth of the roof width.
- (2) Skylights are to be fitted flush with the roof plane and have vertical proportions.
- (3) Skylights are to be predominantly glazed with simple unobtrusive detailing and the frame of the skylight is to have the same colour as the roofing material.

4.1.6 Secondary and laneway dwellings

A secondary dwelling is a self-contained dwelling located on the same land title as the principal dwelling. The *Sydney LEP 2012* defines and permits secondary dwellings in certain zones and establishes their maximum size.

Objectives

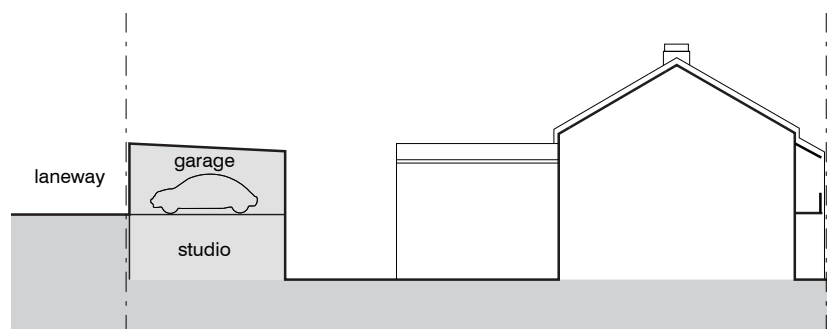
- (a) Ensure secondary dwellings activate lanes and address the public domain.
- (b) Maintain a reasonable level of amenity to the principal dwelling, the site, surrounding properties, and any adjoining lane.
- (c) Ensure the scale and type of development is compatible with the width of the lane, the significance and the scale of heritage items and heritage conservation areas.

Provisions

4.1.6.1 General

- (1) A one storey structure with an attic above is permissible adjacent to a rear lane, provided the height does not exceed 5.4m and amenity to adjacent sites is maintained.
- (2) On lots smaller than 150sqm, a secondary dwelling is not permitted unless it can achieve a minimum consolidated area of private open space for the principal dwelling of 16sqm with a minimum dimension of 3m.
- (3) The roof pitch of a rear lane building must not exceed 40°.
- (4) The secondary dwelling on a lot adjoining a rear lane is to be clearly subservient to the principal dwelling.
- (5) A habitable space may be located below a garage where:
 - (a) where the rear lane is at a higher level than the private open space for the principal dwelling; and
 - (b) the floor level of the habitable space is at the same level and contiguous with the private open space for the principal dwelling, as shown in Figure 4.18 *Habitable space located below a garage*.

Figure 4.18
Habitable space
located below a
garage



4.1.6.2 Heritage items and heritage conservation areas

- (1) Despite provision (1) in Section 4.1.6.1, a two storey structure to the rear lane may be appropriate where there is an existing pattern in the laneway.
- (2) Where a property is a heritage item or is located within a heritage conservation area, development to the rear lane is only possible where it is consistent with the heritage significance of the property, particularly:
 - (a) the ability to appropriately accommodate additional development at the rear of the property; and
 - (b) in terms of its scale and configuration.
- (3) Retain stables or significant structures that contribute to the history, character and significance of the heritage item or heritage conservation area.
- (4) Where a rear lane is highly intact, the pattern of original outbuildings, fences and laneway widths must be retained.
- (5) Development is to retain the predominant scale of the lane, particularly where that scale is single storey, and any landscape features including mature trees.

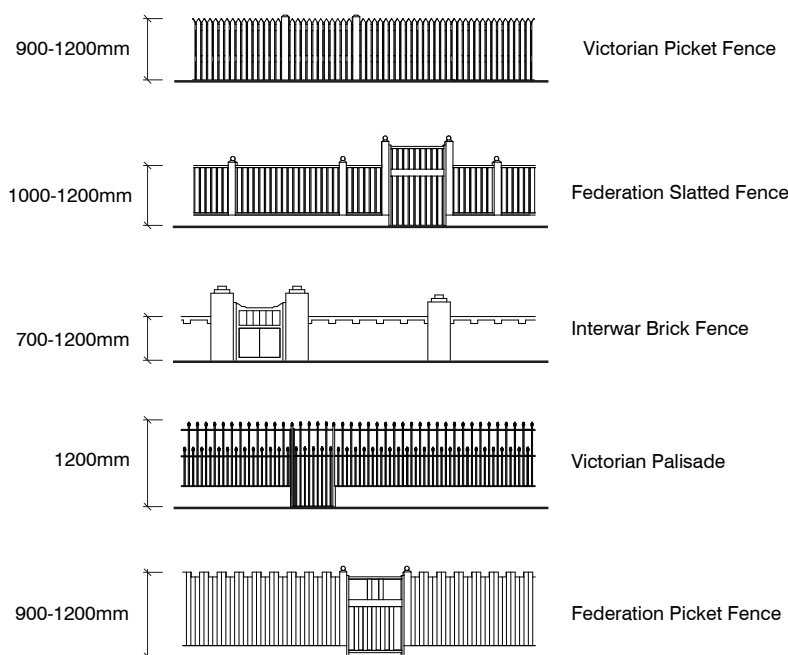
4.1.7 Fences**Objectives**

- (a) Maintain passive surveillance between public and private spaces.
- (b) Contribute to the character of the street.
- (c) Respond to the style of the building.
- (d) Conserve the setting and character of heritage items and contributory buildings.

Provisions**4.1.7.1 Front fences**

- (1) Front fences are to be provided where it is a predominant feature of a street frontage within a street block.
- (2) Front fences are to align with the front property boundary or reflect the predominant fence alignment along the street.
- (3) Height, materials and architectural design and styling of new fences must be consistent with fences that were typical of the period in which the street was predominantly developed, or period the dwelling was built.
- (4) The height of the fence above footpath level excluding the height of any retaining wall and as shown in Figure 4.19 is to be:
 - (a) 0.9m for solid masonry fences; and
 - (b) 1.2m on open or partially transparent styles such as palisade or picket fences, and any associated posts and piers are to be no higher than 1.5m.
- (5) The height of the fence must step to follow any change in level along the street boundary.
- (6) Fencing is to be located to ensure sight lines between pedestrians and vehicles exiting the site are not obscured and so gates do not open over the public roadway or footpath.

Figure 4.19
Examples of typical
front fences



4.1.7.2 Side and rear fences

When proposing a side or rear fence applicants must also refer to the *Dividing Fences Act 1991*.

- (1) Side and rear fences are to be a maximum of 1.8m high.
- (2) Side fences between the front building line and the front boundary are to have a maximum height of 1.5m.
- (3) Where a property is located on a corner, a higher side fence is acceptable if required for privacy or security.

4.1.7.3 Heritage items and within heritage conservation areas

- (1) Retain and repair original or sympathetic later fences that are significant elements of the heritage item or Heritage Conservation Area. Where retention and repair of significant fences is not practical, new fencing is to match the original proportions, materials and details of the original fencing.
- (2) Where original or later sympathetic fencing does not exist, the design of the new fence is to be:
 - (a) based on physical or documentary evidence of the original fence on the site, or the original fence on properties of a similar period and style in the locality; or
 - (b) a contemporary reinterpretation of the original fence type.
- (3) Within heritage conservation areas, appropriate front fence types and materials include:
 - (a) iron palisade fences on a stone or rendered brick base;
 - (b) masonry garden walls with or without rails or cast iron infill;
 - (c) timber picket or slat fences; and
 - (d) timber post and rail fences with wire mesh or fabric wire infill.
- (4) Within heritage conservation areas, inappropriate fence types and materials include concrete block or reconstituted stone fences, metal panel fences, and aluminium picket or palisade fences.

Figure 4.20
Single storey
contributory
buildings, Glebe



4.1.8 Balconies, verandahs and decks

Objectives

- (a) Retain and conserve verandahs and balconies of heritage items and buildings within heritage conservation areas.
- (b) Ensure balconies, verandahs and decks contribute to building design quality and respect the visual and acoustic privacy of neighbours.
- (c) Reinforce infill developments with the repetitive elements of verandahs and balconies where they are characteristic of the streetscape within heritage conservation areas.

Provisions

4.1.8.1 General

- (1) Balconies and decks above the ground floor are to be:
 - (a) located and designed to minimise overlooking of surrounding buildings;
 - (b) of a size, location and design appropriate to the proportions of the building; and
 - (c) avoided at the rear and side of a dwelling.
- (2) The height, scale and alignment of new balconies and verandahs on the façade are to complement existing balconies or verandahs on adjoining dwellings as illustrated in Figures 4.21.
- (3) A front balcony, verandah or deck must not be enclosed.

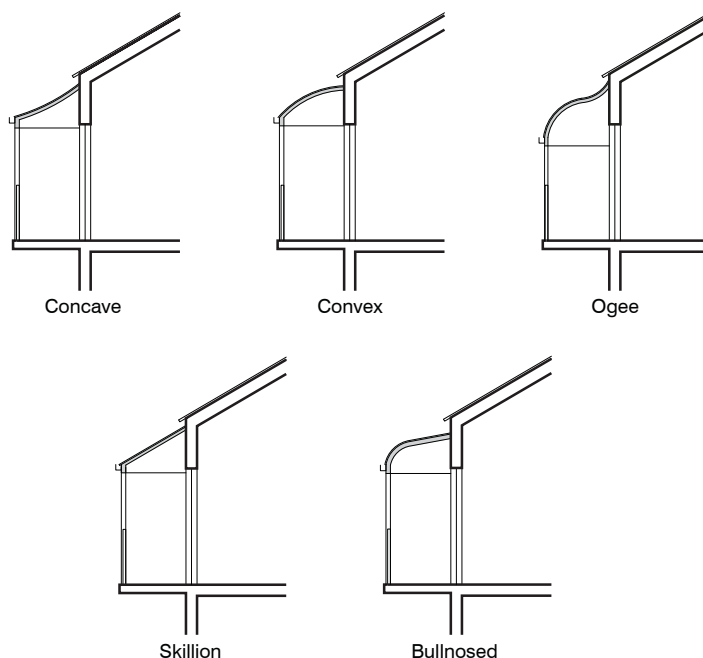
4.1.8.2 Heritage items and heritage conservation areas

- (1) A new building proposed adjacent to a heritage item or within a group, pair or row of buildings within a heritage conservation area that feature verandahs or balconies as original elements is to:
 - (a) include a new verandah or balcony of similar dimensions, location and orientation; and
 - (b) adopt, in either a traditional or contemporary manner, original detail and materials from surrounding buildings.

- (2) Where a front balcony or verandah that was originally open has been enclosed, the consent authority may require:
 - (a) the complete removal of the enclosure as part of any major alterations and additions; and
 - (b) improvements to the appearance of the enclosure by restoring missing details based on physical or historic evidence or using sympathetic cladding materials.
- (3) Alterations or the reinstatement of an existing balcony on the street frontage must retain or reinstate the original separation between the main roof and the balcony roof.

Figure 4.21

Diagrams showing the traditional types of roofs over balconies for terrace housing



4.1.9 Car parking

Sydney LEP 2012 identifies the maximum number of car spaces permitted for dwelling houses, attached dwellings and semi-detached dwellings.

Refer to the relevant Australian Standard which includes templates for vehicle turning circles for vehicular access to properties.

Objective

- (a) Establish the requirements for the design and location of car parking for dwelling houses, attached dwellings and semi-detached dwellings.

Provisions

- (1) The maximum width of a driveway is 2.7m.
- (2) Car parking spaces and structures are to be located behind the main building line, and be subordinate in appearance to the main building.
- (3) Excavated basement garages for single dwellings are not permitted unless they can be accessed from a rear lane.
- (4) Where design and site constraints dictate, the provision of smaller spaces will be considered provided these spaces have a minimum dimension of 2.3m wide by 5.0m long, and a maximum of one vehicle crossing for each dwelling.
- (5) Car access is not permitted across the front boundary for terrace houses or properties in heritage conservation areas.

4.2

Residential Flat, Non-Residential and Mixed Use Developments

The following objectives and provisions apply to residential flat, commercial and mixed use developments only.

Not all provisions in this Section apply to development in Central Sydney and Green Square. This section should also be read in conjunction with Sections 5.1 Central Sydney and 5.2 Green Square under Section 5 Specific Areas.

NSW Residential Flat Design Code 2002 (RFDC)

In addition to the provisions within this DCP, the RFDC is adopted by this DCP for residential flat development. Applicants are required to comply with the RFDC and this DCP when preparing their development proposal. In the event of an inconsistency between the RFDC and a provision within this DCP, the DCP will prevail to the extent of that inconsistency.

4.2.1 Building height

4.2.1.1 Height in storeys and street frontage height in storeys

Refer to *Sydney LEP 2012* for the height in metres control that establishes the maximum height permitted.

Definitions

A storey is the space between a floor and the next floor level above. It does not include an attic, a mezzanine or a space that contains only a lift shaft, stairway or meter room.

Street frontage height in storeys is the vertical height the part of the building closest to the street boundary.

Objective

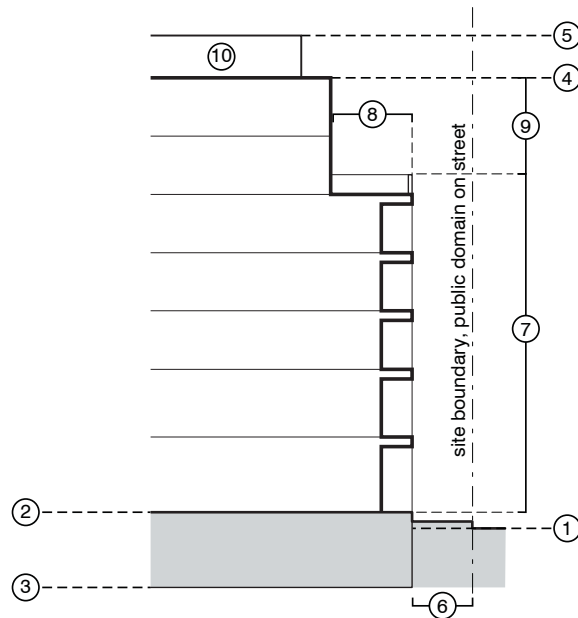
- (a) Ensure the height in storeys and street frontage height in storeys reinforces the existing or future neighbourhood character.

Provisions

- (1) Development must not exceed the maximum number of storeys as shown in the *Building height in storeys map*.
- (2) The maximum may only be achieved where it can be demonstrated that the proposed development:
 - (a) reinforces the neighbourhood character;
 - (b) is consistent with the scale and form of surrounding buildings in heritage conservation areas; and
 - (c) does not detract from the character and significance of the existing building.
- (3) The street frontage height of a building must not exceed the maximum height shown on the Building street frontage height in storeys map. Refer to provision 4.2.2 Building setbacks, to determine the street frontage height setback.

- (4) Where the *Street frontage height of buildings map* does not indicate the maximum height, the maximum street frontage height must generally be consistent with the street frontage height in storeys of adjacent buildings, or the predominant street frontage height in storeys in the vicinity of the proposed building.
- (5) Height of buildings and the street frontage height in storeys should not match anomalous tall neighbouring buildings that are inconsistent with the neighbourhood.

Figure 4.22
Building form controls



- 1 Footpath level
- 2 Ground floor level
- 3 Basement level
- 4 Maximum building height in storeys
- 5 Maximum building height in metres
- 6 Primary building setback
- 7 Street frontage height
- 8 Secondary building setback
- 9 Building form above the street frontage height
- 10 Building services

4.2.1.2 Floor to ceiling heights and floor to floor heights

Objective

- (a) Promote daylight access into building interiors and contribute to the flexible use of buildings.

Provisions

- (1) Buildings with a commercial or retail use are to have a minimum floor to floor height of:
 - (a) 4.5m on the first basement floor to enable conversion to retail uses for all development in Central Sydney;
 - (b) 4.5m on the ground floor; and
 - (c) 3.6m on the first commercial floor and any commercial floor above.

- (2) The minimum floor to floor height of an above ground parking level must be 4.5m on the ground floor and 3.6m on any parking level above to facilitate the conversion of above ground car parking to other uses.
- (3) The design of ground and first floor residential units in a mixed use area or mixed use building are to be flexible with multiple configurations and finished floor to finished ceiling heights of at least 3.3m to enable both residential and commercial uses.
- (4) Habitable rooms in multi-unit residential development and mixed use development are to have a minimum floor to ceiling height of 2.7m.

Note: A floor to ceiling height of 2.7m requires a minimum floor to floor height of 3.1m and a floor to ceiling height of 3.3m require a minimum floor to floor height of 3.6m.

4.2.2 Building setbacks

Objectives

- (a) Ensure development:
 - (i) is generally consistent with existing, adjacent patterns of building setbacks on the street; and
 - (ii) maintains the setting of heritage items and is consistent with building setbacks in heritage conservation areas.
- (b) Establish the street frontage setback of the upper levels of residential flat buildings, and commercial and retail buildings.
- (c) Encourage new building setbacks where appropriate to reinforce the areas desired future character.

Provisions

4.2.2.1 Setbacks

- (1) Setbacks are to be consistent with the setbacks shown in the *Building setback and alignment map*. Where no setback or alignment is shown on the map, the setback and alignment must be consistent with adjoining buildings. When the setback or alignment varies, either the adjacent or average front setback or alignment is to be adopted.
- (2) Underground parking structures, balconies and bay windows may encroach into the front setback by a maximum of 1m.
- (3) The rear setback and alignment is to be consistent with adjoining buildings. When the setback or alignment varies, either the adjacent or average rear setback or alignment is to be adopted.
- (4) In areas where corner buildings are typically built to the street boundary on one or more frontages, new development on a corner may also build to the street boundary.
- (5) Where the site boundary includes a splay at the corner, the building is to be built to the boundary of the splay at ground level.

4.2.2.2 Setbacks above the street frontage height

- (1) Setbacks above the street frontage height are to be included where:
 - (a) adjacent buildings include upper level setbacks; and
 - (b) new development is adjacent to a heritage item to reduce visual impact and to respect the heritage item.
- (2) A setback above the street frontage height is to be a minimum of 3m for residential above non-residential and for residential above residential.

- (3) Where the setback area incorporates screening or similar structures, the design of the screens or structures is to be secondary to the street wall of the building. For example, a secondary structure or screen should be visually recessed or setback at least 300mm from the street wall.

4.2.3 Amenity

Objective

- (a) Ensure that residential amenity is enhanced with landscaping, private and common open space, sun access, ventilation and acoustic privacy.

Provisions

4.2.3.1 Solar access

- (1) Development applications are to include diagrams in plan and elevation that show solar access to proposed apartments and the shadow impact on neighbouring development at hourly intervals between 9am, 12noon and 3pm on 22 March and 21 June. In some cases, Council may require hourly intervals.
- (2) Proposed apartments in a development and neighbouring developments must achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and a minimum 50% of the required minimum area of private open space area.

Note: This provision applies to at least 70% of the apartments in a development (in accordance with the requirements of the NSW Residential Flat Design Code 2002).
- (3) New development must not create any additional overshadowing onto a neighbouring dwelling where that dwelling currently receives less than 2 hours direct sunlight to habitable rooms and 50% of the private open space between 9am and 3pm on 21 June.
- (4) Where the consent authority considers that the level of daylight access to living rooms of proposed dwellings may be inadequate, the applicant will be required to provide a Daylight Report. A Daylight Report is to include an analysis of daylight levels in principal living spaces of residential units and serviced apartments with and compliance with the DCP.

4.2.3.2 Lightwells

- (1) Daylight may be provided by a lightwell, provided the lightwell:
 - (a) is consistent with the building separation and daylight access requirements of the *NSW Residential Flat Design Code 2002*;
 - (b) is not the only source of daylight to a habitable room;
 - (c) is fully open to the sky;
 - (d) where shared with other uses such as indoor atria, voids over entry lobbies or indoor planted areas, does not generate undue noise or visual privacy effects; and
 - (e) provides a reasonable outlook from windows in dwellings and does not have exposed services.

4.2.3.3 Internal common areas

- (1) Internal common areas, corridors and lift lobbies are to have access to daylight and an outlook.
- (2) Provide modulation and adequate dimensions to common corridors to give a feeling of spaciousness. Common corridors must also be designed to maximise safety and security.
- (3) Common corridors are to be at least 2m wide in front of lifts.

4.2.3.4 Design features to manage solar access

- (1) Fixed shading devices are not to substantially restrict access to natural daylight or outlook.
- (2) Extensive glazing that is unprotected from mid-summer sunlight is to be avoided and reliance upon high performance tinting or glazing as a mid-summer sun control device is not appropriate.
- (3) Landscaping is to be carefully considered and may include:
 - (a) wide canopied deciduous trees, vines and pergolas to the north of a building to provide shade, reduce glare during summer months and allow sunlight through winter; and
 - (b) deciduous vegetation to the west and east of buildings to reduce glare, heat intake and the effects of prevailing winds.

4.2.3.5 Landscaping

- (1) For new development, submit a landscape plan prepared by a suitably qualified landscape architect with the development application that shows the:
 - (a) planting schedule with numbers and species of plants including botanical and common names;
 - (b) number and name including botanical and common names of mature trees on site;
 - (c) type, levels and detail of paving, fencing, retaining walls and other details of external areas of the site; and
 - (d) response to other requirements of this provision.
- (2) Natural features, such as cliff lines and rocky outcrops are to be retained.
- (3) All development proposals are to be designed to minimise the impact on significant trees on site, street trees and trees on adjoining land.
- (4) Landscaping is to give preference to species with low water needs, including native plant species, and trees and shrubs are to be selected and located to manage sun and wind impacts.

4.2.3.6 Deep soil

The following deep soil provisions do not apply to development in Central Sydney.

- (1) The minimum amount of deep soil is to be 10% of the site area.
- (2) For lots greater than 1,000sqm, the deep soil area is to be consolidated with a minimum dimension of 10m.
- (3) All remaining deep soil areas are to have a minimum dimension of 3m.
- (4) Where site conditions allow, the deep soil is to be consolidated as one area to assist with the ease of drainage and allow for effective deep soil planting.

4.2.3.7 Private open space and balconies

Balcony means an area of private open space elevated above the ground level by one or more storeys. Balconies exclude any areas for common horizontal circulation which are open, partially open or enclosed. This definition should also be used to interpret references to balconies in *Sydney LEP 2012*.

- (1) Private open space may be in the form of courtyards, decks and balconies and is to be provided for at least 75% of dwellings in a development.
- (2) Private open space is to have a north west to north east aspect where practicable.

- (3) Private open space is to be directly accessible from the living area of the dwelling and capable of serving as an extension of the living area.
- (4) Private open space for ground floor dwellings is to be located at the ground level where possible, with a maximum gradient of 1 in 20.
- (5) Up to 25% of dwellings in a development may have 'juliet' balconies only or a floor to ceiling window to living rooms with a balustrade to the window.
- (6) Private open space is to have the following minimum consolidated area and dimensions for all dwelling sizes within a development:
 - (a) ground level dwellings: 25sqm with a minimum dimension of 4m; and
 - (b) upper level units: 10sqm with a minimum dimension of 2m.
- (7) Balconies are to have external finishes to walls, floor and ceilings.
- (8) A planting bed adjacent to the street boundary is to be provided for all ground floor dwellings. Where a level courtyard is not possible, a deck or split level courtyard is to have a levelled area with a minimum dimension of 2m.
- (9) Where environmental conditions including wind and noise effects, could significantly diminish the amenity of private open space, the consent authority may waive the requirement for the provision of private open space.
- (10) Wind and acoustic treatments of private open space must not result in the space being enclosed where it becomes part of the building envelope as defined by the BCA. Where, in the opinion of the consent authority, the private open space has the character of a habitable room it will be included as GFA.
- (11) Swimming pools are not to be included in any calculation of consolidated private open space area.

Figure 4.23

Balconies, Walsh Bay

The balconies are well integrated into the overall design of the building and utilise operable sun screens



4.2.3.8 Common open space

- (1) Provide an area of common open space under common title that is at least 25% of the total site area and has a minimum dimension of 6m. The calculation of the required area of common open space is to exclude driveways, parking areas, essential access paths such as fire escape routes, indoor gymnasiums and outdoor clothes drying areas.

- (2) The common open space is to be located and designed to achieve good amenity for the dwellings in terms of solar access, natural air flow and ventilation, and outlook. At least 30% of the required common open space area is to receive 2 hours of direct sunlight between 9am and 3pm on 21 June.
- (3) Common open space may be located on elevated gardens or roof tops provided that the area and overall design can be used for the recreation and amenity needs of residents.
- (4) Roof top areas designed for use as recreation facilities are to have a high standard of finish and design. The design of exterior private open spaces such as roof top gardens must address visual and acoustic privacy, safety, security and wind effects.
- (5) Common open space is to be located and designed to:
 - (a) be seen from the street between buildings;
 - (b) have a northerly aspect where possible;
 - (c) be additional to public and common thoroughfares;
 - (d) be clearly demarcated as a private area for use by residents only;
 - (e) include passive surveillance from adjacent internal living areas or pathways;
 - (f) provide for active and passive recreation needs of all residents; and
 - (g) provide soft landscaping.
- (6) Unpaved soft landscaped area must comprise a minimum of 50% of the total area of common open space.
- (7) The minimum consolidated area of common open space will only be permitted above the ground level where:
 - (a) a location at ground level is not possible due to conditions of the site;
 - (b) the proposed common open space will provide a similar level of amenity as a common open space at ground level; and
 - (c) there will be no significant impact on surrounding properties in respect to the loss of privacy.

Figure 4.24

Example of common open space, Camperdown. The space exhibits good passive surveillance and combines both soft and hard landscaping



4.2.3.9 Ventilation

- (1) Adequate natural ventilation makes an important contribution to the amenity of dwelling units.
- (2) Natural cross ventilation in dwelling units is to be achieved by having window openings facing different directions where possible. For single facing apartments, the depth of the apartment is to be less than the width of its external face to encourage good ventilation.
- (3) Dwelling units must not solely rely on lightwells or building setbacks enclosed on three sides by other buildings for natural ventilation.

Note: In a temperate climate such as Sydney's, achieving ventilation for dwelling units provided solely by air conditioning is considered unacceptable.

4.2.3.10 Outlook

- (1) Provide a pleasant outlook, as distinct from views, from all apartments.
- (2) Views and outlooks from existing residential development should be considered in the site planning and massing of new development.

Note: Outlook is a short range prospect, such as building to building, while views are more extensive or long range to particular objects or geographic features.

4.2.3.11 Acoustic privacy

- (1) A Noise Impact Assessment prepared by a suitably qualified acoustic consultant may be required when submitting a development application for commercial and retail uses which may affect the acoustic privacy of the adjacent residential use.
- (2) Where necessary, a residential development is to include acoustic measures to reduce the impact of noise from existing or planned external sources (for example busy roads, adjoining industries, live music venues and public parks and plazas in which people may congregate or host live music or events).
- (3) Development is to incorporate measures that reduce the entry of noise from external sources into dwellings.
- (4) Where possible, the attenuation of noise at its source is preferred. Where this option is adopted, the applicant will need to demonstrate that the measures to be undertaken:
 - (a) have the consent of relevant parties associated with that noise source; and
 - (b) last for the life of the development proposal.
- (7) The repeatable maximum LAeq (1 hour) for residential buildings and serviced apartments must not exceed the following levels:
 - (a) for closed windows and doors:
 - (i) 35dB for bedrooms (10pm-7am); and
 - (ii) 45dB for main living areas (24 hours).
 - (b) for open windows and doors:
 - (i) 45dB for bedrooms (10pm-7am); and
 - (ii) 55dB for main living areas (24 hours).

- (8) Where natural ventilation of a room cannot be achieved, the repeatable maximum LAeq (1hour) level in a dwelling when doors and windows are shut and air conditioning is operating must not exceed:
 - (a) 38dB for bedrooms (10pm-7am); and
 - (b) 48dB for main living areas (24 hours).
- (9) These levels are to include the combined measured level of noise from both external sources and the ventilation system operating normally.
- (10) To limit the transmission of noise to and between dwellings, all floors are to have a weighted standardised impact sound level (L'nT,w) less than or equal to 55 where the floor separates a habitable room and another habitable room, bathroom, toilet, laundry, kitchen, plant room, stairway, public corridor, hallway and the like.
- (11) The overall design and layout of dwellings, where appropriate, is to include:
 - (a) a limit on window size and number where oriented towards an intrusive noise source;
 - (b) seals at entry doors to reduce noise transmission from common corridors or outside the building;
 - (c) minimisation of the number of shared walls with other dwelling units;
 - (d) storage, circulation areas, and non habitable rooms to buffer noise from external sources;
 - (e) double or acoustic glazing; and
 - (f) operable acoustic screens to balconies.
- (12) Mixed-use development which includes two or more dwellings is to provide separate lift access and a separate entrance for use exclusively for the dwellings.

4.2.3.12 Flexible housing and dwelling mix

Objectives

- (a) Encourage a range of dwelling types within all residential development of more than 20 dwellings.
- (b) Provide a mix of dwellings to cater for the needs of the existing and future resident population and to encourage a diverse population and achieve social diversity.
- (c) Encourage flexible building design to enable future changes in use and internal configurations.

Provisions

- (1) Developments that propose more than 20 dwellings are to provide a mix of dwellings consistent with the following percentage mix:
 - (a) Studio: 5 - 10%;
 - (b) 1 bedroom: 10 – 30%
 - (c) 2 bedroom: 40 – 75%; and
 - (d) 3+ bedroom: 10 - 100%

The maximum percentage of 1 bedroom dwellings may be increased above 30% provided that the numbers of studio dwellings and 1 bedroom dwellings combined does not exceed 40% of the total dwellings proposed.

- (2) Adaptive re-use of existing structures may propose an alternative mix where it can be demonstrated that the existing structure restricts compliance with provision (1) above.
- (3) New development is to demonstrate that internal designs allow adaptation to different uses over time by:
 - (a) showing internal walls that can be easily removed;
 - (b) locating services where they will not impede the future conversion of the unit into a different configuration; and
 - (c) incorporating, in at least 10% of dwellings in a development, the opportunity for parts of a dwelling to be separately or independently occupied, for example, dual key apartments without reducing the total percentage of any dwelling types below the minimum percentages defined in (1) above.
- (4) Dwellings comprising two or more bedrooms may be configured as dual key apartments provided that:
 - (a) both apartments are accessed from a shared private lobby or have dual access;
 - (b) where a strata plan exists, both apartments are contained within a single strata unit; and
 - (c) it does not impact on significant fabric or spaces of a heritage item.

4.2.3.13 Wind affected balconies

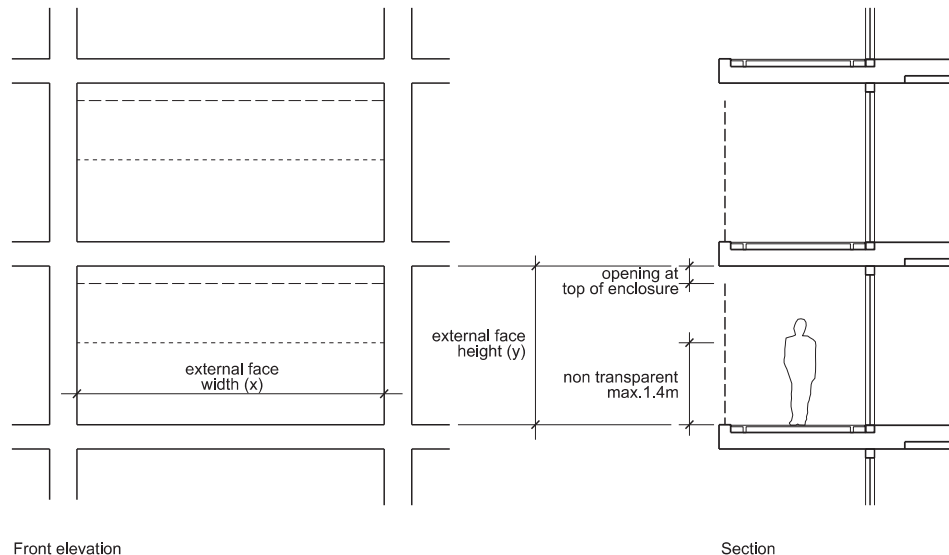
- (1) A wind screen protected balcony proposed in accordance with clause 4.5A of the Sydney LEP 2012 is to be designed and constructed as a private external balcony with drainage, natural ventilation and finishes acceptable for an outdoor space.
- (2) Where a building elevation is required to have or provides a podium with a setback to the tower, wind screen protected balconies will only be permitted above the podium. For other towers or tall buildings, wind screen protected balconies are permitted only on the tower component of the building.
- (3) Wind screens are to be well designed and contribute to the high quality of the building facade.
- (4) To allow adequate natural ventilation of the balcony and the apartment, the wind screen design must have openings that are at least 25 per cent of the external face of the balcony (X by Y) or as required by Clause (5) whichever is greater, including an opening at the top of the enclosure which:
 - (a) is permanently open;
 - (b) is the width (X) of the balcony; and
 - (c) has a minimum height that is the greater of 300mm or 10 per cent of the distance between the balcony floor and the finished balcony ceiling.
- (5) The floor area of a wind protected balcony is to be included in the calculation of floor area when determining the area of unobstructed window openings for naturally ventilated apartments under the Apartment Design Guide.

Note: The Apartment Design Guide guideline for natural ventilation of habitable rooms states the area of unobstructed window openings should be equal to at least 5% of the floor area served.

- (6) Wind screens are to adopt transparent materials that maximise daylight access and views. Any non-transparent materials must not exceed a height of 1.4m above the floor level of the balcony.

- (7) The average depth of the balcony must be less than the width.
- (8) Wind screens fitted to balconies on existing buildings are to be implemented consistently across the whole building with a single system agreed to by the Owners Corporation and that complements the design quality of the facade.
- (9) Wind screens will not be allowed on original balconies of heritage items or contributory buildings in heritage conservation areas.

Figure 4.25
Wind affected
balconies



4.2.3.14 Apartments with setback bedrooms

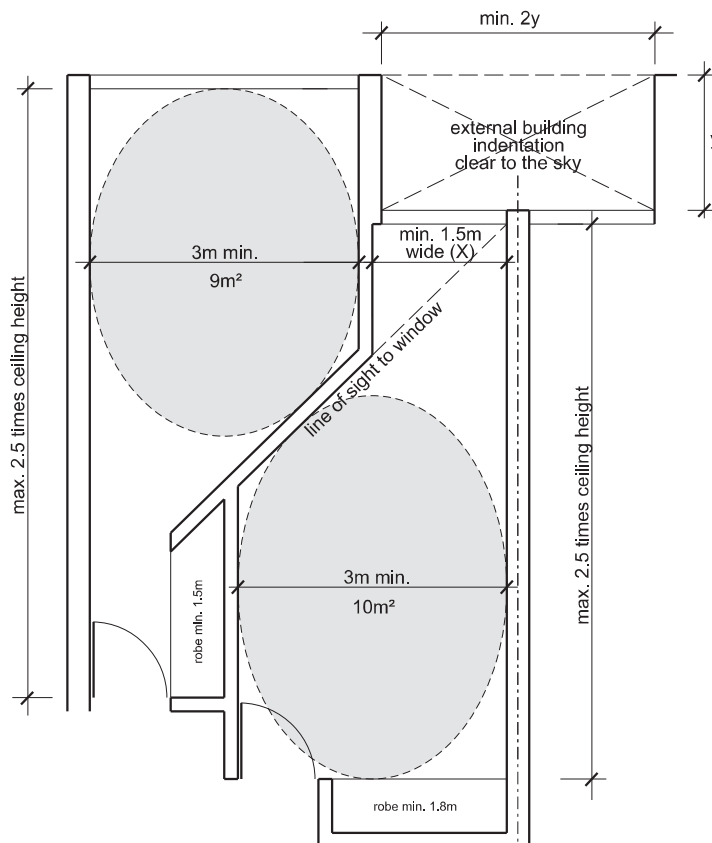
- (1) The total number of apartments with setback bedrooms cannot exceed 10 per cent of the units in a building.
- (2) The apartments with setback bedrooms are only permitted where the orientation of the window to the setback bedroom is a maximum of 90 degrees either side of true north.
- (3) The window to the recessed bedroom is to be at least 1.5m wide (X), full height (spandrel to ceiling) and operable to provide amenity and usable space.
- (4) The building indentation adjacent to the window to the setback bedroom is not to have any horizontal or vertical projections beyond the window and is to be clear to the sky.
- (5) No internal structures are to be built in the space from the window to the setback bedroom area.
- (6) An operable fan light is to be included above the recessed bedroom door to increase air flow.
- (7) The design excellence bonus will not be awarded where a building includes apartments with setback bedrooms.

Note: The NSW Government's Apartment Design Guideline (ADG), provides relevant design criteria and guidance relating to:

- Natural ventilation of habitable rooms (Section 4B-1 and 4B-2).
- The location and visibility of windows (Section 4D-1).
- Habitable room depths (Section 4D-2).
- Location of bedrooms on the external face of the building (Section 4D-2).
- Minimum areas and dimensions (Section 4D-3).

Figure 4.26

Layout for an apartment with a setback bedroom



4.2.4 Fine grain, architectural diversity and articulation

Council's policy promoting 'fine grain' encourages elements with different scales within each street block. This can be best achieved through 'fine grain' site subdivision. Where subdivision is not proposed then a number of buildings should be introduced. Where large buildings are proposed, they are to have a contextual variety of different architectural character to provide an individual identities for residents.

Architectural character includes massing, articulation, composition of building elements including fenestration, material use and details including building entrances, fenestration, balconies, balustrades, awnings, planters, pergolas, boundary walls, fences etc.

Objectives

- (a) Promote the subdivision of large sites.
- (b) Introduce fine grain built form and varied architectural character in large developments.
- (c) Provide identity for residents in large developments by visually differentiating groups of dwellings.
- (d) Ensure that the scale, modulation and façade articulation of development responds to its context.

Provisions

- (1) The maximum street frontage length of an individual building is:
 - (a) 65m on streets with a width greater than or equal to 18m wide; and
 - (b) 40m on streets with a width less than 18m wide (refer to Figure 4.27).

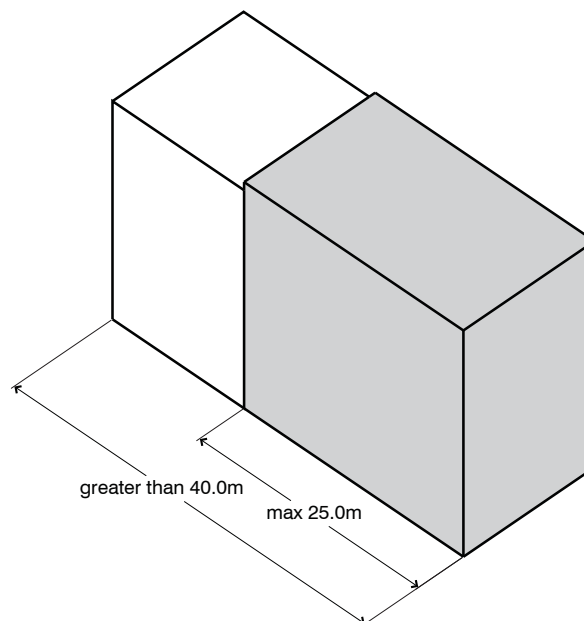
- (2) Where the street frontage of the building exceeds the maximum length identified in provision (1), it is to be broken into two or more buildings each with different architectural characters to the street or public domain.
- (3) Each building facade is to be articulated into smaller elements at a scale or grain that reflects:
 - (a) the use of the building and the various components of the building;
 - (b) the location of the building, or that part of the building relative to pedestrian or outdoor recreation activity; and
 - (c) the details and building elements including building entries, ground floor, lower floors, top floor and roof.
- (4) Any two buildings are required to be separated by full height breaks consistent with the building separation provisions of the RFDC or as per below whichever is greater. Where the lower of the two buildings is (refer to Figure 4.28):
 - (a) up to 3 storeys, the break is to be at least 4m wide; and
 - (b) 4 storeys and above, the break is to have a width of 1m for each storey of the lower building.

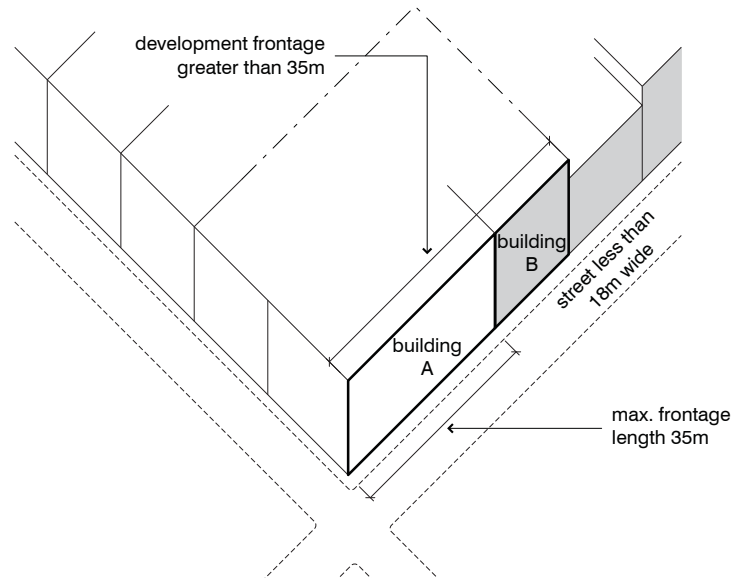
For example, where a 7 storey building must be separated from a 12 storey building, a minimum 7m separation is to be provided.

- (5) Within long street blocks, buildings are to be limited in length, have a variety of facades, articulation, massing and architectural character so the street block presents as a group of buildings rather than a single building.
- (6) Generally street block development is to provide at least two full height breaks between buildings to enable low level air flow and visual connections between the street and courtyards. Where possible, breaks between buildings are to be aligned with streets and lanes in the surrounding area.
- (7) Where active frontages are nominated on the *Active frontages map*, two buildings may be separated by adjoining party walls to ensure continuity of active frontages at ground level.

Figure 4.27

The maximum street frontage length of a building

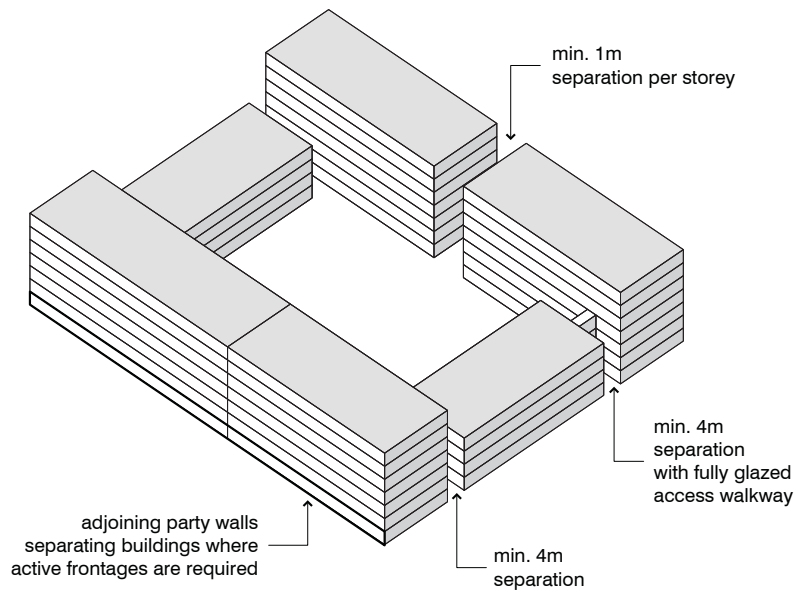




- (8) Design variety is to be consistent with an approved Design Excellence Strategy, refer to the provisions under Section 3.3 Design excellence and competitive design process.
- (9) Any part of a building less than 35m high and in excess of 40m long must be designed with at least two distinct building components, each of which is to:
 - (a) have its own architectural character;
 - (b) not exceed 25m in length with a preferred length of less than 20m.
- (10) Groups of dwellings served by the same vertical circulation lift or stair are to be designed as a distinct 'building component'. Generally for buildings up to 8 storeys high, these groups must not exceed 25 dwellings per core.
- (11) Buildings less than or equal to 40m in length, may have a single architectural character provided that the facade elements establish a 'fine grain' articulation.
- (12) Car parking areas at ground level must be sleeved by other uses with a minimum depth of 6m to front and activate the street.
- (13) Where possible, breaks between buildings are to be aligned with streets and lanes in the surrounding area.

Figure 4.28

Buildings are required to be separated by a corridor



4.2.5 Types of development

4.2.5.1 Tall buildings

The following objectives and provisions do not apply to Central Sydney. Tall buildings (towers) are buildings greater than 35m in height.

Objectives

- (a) Ensure that tall buildings exhibit high quality design.
- (b) Ensure the location of tall buildings reinforce the urban structure and street hierarchy.
- (c) Ensure the location, orientation, and form of tall buildings address overshadowing impacts on neighbouring buildings, and public and private open spaces.
- (d) Ensure that tall buildings are vertically proportioned with a slender form; and
- (e) Limit the size and dimension of floor plates for tall buildings to minimise building bulk.

Provisions

- (1) The component of a residential building that is above 35m high must have a maximum floor plate size of 750sqm including balconies.
- (2) Tall buildings are to be generally separated from other tall buildings by a minimum of 60m. This spacing may be reduced where buildings are offset, preserve views or the urban structure and street hierarchy is reinforced by the location of tall buildings.
- (3) Generally, tall buildings are to be vertically proportioned in height, form and architectural articulation.

4.2.5.2 Courtyard buildings and perimeter street block buildings

The following objectives and provisions do not apply to development within Central Sydney.

Objectives

- (a) Encourage publicly accessible or communal courtyards in suitable locations to supplement the public open space network and provide amenity for residents.
- (b) Design communal courtyards as focal spaces that are visually connected to the public domain.
- (c) Encourage publicly accessible through-site pedestrian links.

Provisions

- (1) Where the courtyard is private and does not facilitate a publicly accessible through-site link, the space is to have a visual connection to the public domain through entrances and breaks in the building.
- (2) In mixed-use courtyard buildings, the central courtyard may function as a semi-private, mixed commercial space, being privately maintained and is to have public access during suitable hours set at the discretion of the consent authority.

4.2.5.3 Development on busy roads and active frontages

The following provisions apply to, sensitive uses on sites that are to have an active frontage as shown on the *Active frontages map*, or sites with a frontage to a busy road that carries more than 20,000 vehicles a day. Sensitive uses include:

- buildings for residential use (including mixed use buildings);
- places of public worship;
- hospitals; and
- educational establishments or childcare centres

Noise and air quality mitigation measures are required for new developments along road corridors carrying more than 20,000 Annual Average Daily Traffic. A copy of the 'Traffic volume maps on noise assessment for buildings on land adjacent to busy roads' can be accessed on the Roads and Maritime Services website www.rta.nsw.gov.au.

These provisions also provide a design solution to achieve acceptable amenity for residential uses that may be affected by noise from busy roads and active uses.

Applicants proposing development on busy roads should also refer to *State Environment Planning Policy (Infrastructure) 2007* and the NSW Government's *Development near Rail Corridors and Busy Roads – Interim Guidelines* which includes design guidelines and requirements to manage the impacts from road and rail noise and vibration.

Objectives

- (a) Mitigate the impacts of noise for sensitive uses located along busy road corridors.
- (b) Ensure visual privacy for residential dwellings when viewed from the adjacent public domain.
- (c) Ensure acoustic amenity for sensitive uses by attenuating noise from external sources.
- (d) Ensure reasonable internal daylight levels within sensitive uses.

Provisions

- (1) Where sensitive uses are proposed, council may require an Acoustic Assessment prepared with reference to NSW Government's Development near Rail Corridors and Busy Roads – Interim Guidelines.
- (2) Where sensitive uses are proposed, development is to be appropriately designed to minimise the impact of road noise and vibration.
- (3) Where development fronts roads with more than 40,000 vehicles per day, non-residential uses are required on the ground floor and first floor.
- (4) Where development fronts roads with more than 20,000 vehicles per day, non-residential uses are required on the ground floor.
- (5) Non-residential uses require a minimum ceiling height of:
 - (a) 3.6m where located on the ground floor; and
 - (b) 3.3m where located on the first floor or above.
- (6) Non-residential uses on the ground floor and first floor require a minimum internal depth from the street frontage of 10m measured from the glass line.
- (7) Where a development has residential uses with habitable rooms that front a busy road with more than 20,000 vehicles per day or is located on an active frontage and has a floor level within 10m of the ground level, it must be designed to have a street frontage that has:
 - (a) a minimum 65% of the elevational area, including the balustrade, as solid masonry; and
 - (b) a sun room behind the street frontage with a minimum clear depth of 1.2m; and
 - (c) fully retractable privacy screens at the street frontage alignment; and
 - (d) fully retractable glazed screens directly behind the privacy screens which create a full acoustic seal and reasonable acoustic amenity in habitable rooms when closed.

4.2.5.4 Residential uses on the ground and first floor**Objectives**

- (a) Design ground floor apartments with a similar appearance as two storey terrace houses.
- (b) Balance ground floor dwelling privacy with surveillance to the street.
- (c) Activate the street with individual building entries.
- (d) Create a fine-grain and varied rhythm of built form along the street.
- (e) Create opportunities at the street level for planting or landscaped areas and visually extend open areas at the lower levels.

Provisions

- (1) Ground floor residential uses are to be provided with a minimum of:
 - (a) 3m primary building setback, except where a zero lot line has been established by existing adjacent development;
 - (b) 4m setback from the site boundary to the glass line enclosing an internal space at the ground and first floor; and
 - (c) 3m wide deep soil landscape setback as a private front garden. The garden may be located up to 1m above the street level.

- (2) Ground floor private open space facing the street is to be provided as a deck up to 2m deep.
- (3) Ground floor level is to be a maximum of 1.0m above the adjacent public domain level. On a sloping site step the ground floor levels to maintain an optimal relationship to the street for each dwelling.
- (4) Sills or opaque treatments to ground floor windows are to be a minimum of 0.8m above ground floor level to provide privacy.
- (5) Ground floor dwellings that face the street are to have individual entries to the street.
- (6) Balustrades to ground floor decks are to be predominantly open, with preference for contemporary steel palisade types.
- (7) A predominantly open contemporary steel palisade fence up to a maximum of 1.2m high may be located on the site boundary.
- (8) Minimise the size of first floor balconies where possible, to ensure adequate light reaches ground floor living areas.

Figure 4.29

An example of development with frequent building entries and residential uses at the ground and first floor



4.2.6 Waste and recycling management

Refer to more detailed waste management and recycling controls in the City of Sydney's *Guidelines for Waste and Recycling Management in New Developments* (the Guidelines) are to be considered in conjunction with the City's *Waste Management Local Approvals Policy*, which outlines how waste and recycling must be managed, stored and collected in public places.

Development must also comply with Section 3.14.1 Waste and Recycling Management Plans.

Objectives

- (a) Ensure that each dwelling has adequate space to manage waste and recycling.
- (b) Ensure that buildings provide appropriate facilities to manage waste and maximise recovery of resources.
- (c) Ensure that residential amenity is not impacted by waste systems and collection.

Provisions**4.2.6.1 General**

- (1) Comply with the City of Sydney's *Guidelines for Waste Management in New Developments*.

4.2.6.2 Residential flat buildings and serviced apartments

- (1) A space is to be provided inside each dwelling for separate storage of at least two day's volume of general waste, recyclables and compostable material.
- (2) Provide a centralised waste and recycling storage area(s) near the collection point with capacity to store all waste and recycling likely to be generated in the building in the period between normal collection times.
- (3) Provide a separate space such as a room or screened area (in a designated area or room in or attached to the waste and recycling storage area) for the storage and recycling of bulky waste, textile waste and problem waste for collection.
- (4) The maximum walking distance from any entrance of a residential dwelling to the waste and recycling storage area is not to exceed 30 metres (lift travel distance not included) and should be located close to lifts and/or stairwells.
- (5) Space for composting and worm farming is to be available for all residents in a communal facility or in small private courtyards. Composting facilities are to be sited on an unpaved area with soil depth of at least 300mm.
- (6) If a chute system is used, a dual chute system (two separate chutes, one for waste and one for recycling) is to be provided for buildings with more than nine storeys.
- (7) If a chute system is used in buildings with nine or less storeys, a waste chute is required plus space for recycling bins within chute rooms (at least two 240L recycling MGB per six residences serviced by that chute). A second recycling chute can be provided but is not required.
- (8) A chute room is required on each habitable floor that has a chute system. The chute room is to be designed in accordance with Section B in the *Guidelines for Waste Management in New Developments*.
- (9) Minimise noise from the operation of the waste and recycling management system to residential units by:
 - (a) locating chutes away from habitable rooms, and
 - (b) provide acoustic insulation to the waste service facilities or residential units adjacent to or above chutes, waste storage facilities, chute discharge, waste compaction equipment and waste collection vehicle access points.

4.2.6.3 Additional provisions for mixed use developments

- (1) The waste handling, storage and collection systems for residential and non-residential waste are to be separate and self-contained, this includes separate keys and locking systems.
- (2) Provide easy access from each central waste and recycling storage area to the nominated collection point.
- (3) The Waste Management and Recycling Plan is required to separately identify the collection points and management systems for both residential and non-residential waste streams.
- (4) Demonstrate that noise and odour from the non-residential waste and recycling management system does not impact on other occupants within the development.

- (5) The design and management of the waste management system is to physically and actively discourage non-residential tenants from using residential waste and recycling systems.

4.2.6.4 Additional provisions for non-residential development

- (1) Provide a waste service compartment or a waste and recycling area on each floor of the building with sufficient capacity to store at least two day's volume of waste and recycling.
- (2) Storage facilities for separated waste, such as paper, cardboard, containers and food waste on each floor and in the centralised waste storage area, are to be included in all non-residential developments and indicated on the plans. The storage of paper and cardboard is to be in a dry, vermin proof area.
- (3) Kitchens, office tearooms, service and food preparation areas are to be designed with sufficient space for the interim storage of recycling, food and general waste in separate receptacles and is to be indicated on plans.
- (4) Provide a dedicated space for storing bulky waste and problem waste for recycling as appropriate but no less than:
 - (a) 2m² for developments under 100m²;
 - (b) 4m² for developments between 100m² and 2,000m²; and
 - (c) An additional 4m² is required for each retail, accommodation or entertainment development over 2,000 m² and for every 20,000 m² of office space.
- (5) Where communal composting areas are proposed, it is preferred they are managed by a gardener or caretaker and located:
 - (a) in an accessible and visible area to increase awareness and so that it is well maintained;
 - (b) away from dwellings on site and on adjacent properties, so they are not affected by potential odours; and
 - (c) so that potential run-off is away from site drainage points.
- (6) Waste and recycling storage facilities are to be easily accessible to building occupants and removal vehicles and of a sufficient size and capacity to service the building.
- (7) Screen storage facilities from any public place or adjoining property.
- (8) In addition to the standard provision for wastes and recyclables, premises are to allocate sufficient space for the separate storage of:
 - (a) reusable items such as crates, pallets, kegs so that storage in a public place is avoided; and
 - (b) liquid wastes such as oils with storage areas bunded, and drained to a grease trap, in accordance with the requirements of state government authorities and agencies.
- (9) If more than 10m cubic metres of uncompacted waste and recycling is likely to be generated per day the central waste and recycling room is to be separate from the goods receiving dock and waste is to be collected in a compaction unit.
- (10) For specific premise types refer to Section D in the *Guidelines for Waste Management in New Developments* for additional provisions.

4.2.7 Heating and cooling infrastructure

Heating and cooling infrastructure in large residential developments is more efficient if consolidated in a centralised area. Centrally located services also allow buildings to readily adopt newer environmental technologies as they arise.

Objective

- (a) Ensure that heating and cooling infrastructure within residential developments is consolidated in a centralised location to accommodate future environmental technologies.

Provision

- (1) For building maintenance and to future proof residential buildings to enable infrastructure upgrades, heating and cooling infrastructure is to be consolidated into a centralised basement location and near the street frontage where possible.

4.2.8 Letterboxes

Provisions

- (1) Provide individual letterboxes where ground floor residential flat building units have direct access to the street.
- (2) Provide a mailbox structure that meets the relevant Australia Post requirements. The mailbox structure is to be located close to the major street entry to the site. All letterboxes are to be lockable.

4.2.9 Non-residential development in the B4 Mixed Uses zone

The following provisions apply to development within the B4 Mixed Uses zone under *Sydney LEP 2012*. The B4 Mixed Uses zone allows a variety of compatible land uses as residential, business, office, retail and other development.

- Provide a mix of compatible land uses.
- Integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- Ensure uses support the viability of centres.

Whilst the City continues to encourage diversity within mixed use neighbourhoods, it is important that pockets of residential development within the mixed uses zone are maintained and complemented by future development.

Objectives

- (a) Ensure non-residential development is compatible with, and does not detract from the amenity of residential development.
- (b) Protect existing intact pockets of residential development.
- (c) Ensure that any impacts generated by non-residential development such as operating hours, noise, privacy, vehicular and pedestrian traffic are adequately managed to preserve the quality of life for residents in the area.

Provision

- (1) In granting development consent for non-residential development on sites within proximity to residential uses within the B4 Mixed Uses zone, the consent authority will have regard to the potential impacts on the amenity of existing residential uses. The following matters must be considered and addressed:
 - (a) noise impacts;
 - (b) operating hours;
 - (c) privacy;
 - (d) vehicular and pedestrian traffic;
 - (e) vibration;
 - (f) reflectivity;
 - (g) overlooking; and
 - (h) overshadowing.

4.3

Industrial Developments

4.3.1 General requirements

Objectives

- (a) Provide general requirements for industrial development outside of the Southern Employment Lands.

Provisions

- (1) Industrial development is to have regard to the objectives and provisions of Section 5.8.2 Development.

4.4

Other Development Types and Uses

4.4.1 Boarding houses and student accommodation

The BCA has two classifications for boarding houses. **Class 1b** boarding house does not exceed 300sqm of floor area of accommodate no more than 12 residents and no other building class is above or below. All other boarding houses are Class 3 buildings. Class 3 boarding houses are subject to different requirements, including more stringent fire safety requirements. Reference should also be made to the *Affordable Rental Housing SEPP 2009*, which sets out certain requirements for boarding houses.

The following objectives and provisions are to also be read in conjunction with the City of Sydney Boarding Houses Guideline.

Objectives

- (a) Ensure an acceptable level of amenity and accommodation in boarding houses to meet the needs of residents and owners.
- (b) Minimise the adverse impacts associated with Boarding Houses on adjoining properties and the vicinity.

Provisions

4.4.1.1 Subdivision

- (1) The strata subdivision or community title subdivision of boarding houses or student accommodation is not permitted.

4.4.1.2 Bedrooms

- (1) The gross floor area of a bedroom is to be at least:
 - (a) 12sqm (including 1.5sqm required for wardrobe space); plus
 - (b) 4sqm when a second adult occupant is intended, which must be clearly shown on plans; plus
 - (c) 2.1sqm for any en suite, which must comprise a hand basin and toilet; plus
 - (d) 0.8sqm for any shower in the en suite; plus
 - (e) 1.1sqm for any laundry, which must comprise a wash tub and washing machine; plus
 - (f) 2sqm for any kitchenette, which must comprise a small fridge, cupboards and shelves and a microwave.
- (2) Each bedroom must have access to natural light, from a window or door with a minimum aggregate area of 10% of the floor area of the room. Skylights are not to be the sole source of light.
- (3) Ensure the ceiling height in any bedroom containing double bunks is 2.7m. Triple bunks are not permitted.
- (4) In boarding houses classified as Class 3 by the BCA, each bedroom is to meet the fire safety standards of a sole occupancy unit for a Class 3 building in the BCA, whether it is provided as a sole occupancy or not.

4.4.1.3 Communal kitchen areas

- (1) A communal kitchen area is to be provided with a minimum area that is the greater of 6.5sqm in total or 1.2sqm for each resident occupying a bedroom without a kitchenette.
- (2) The communal kitchen is to contain:
 - (a) one sink for every 6 people, or part thereof, with running hot and cold water; and
 - (b) one stove top cooker for every 6 people, or part thereof, with appropriate exhaust ventilation.
- (3) The communal kitchen is to contain, for each resident occupying a bedroom without a kitchenette:
 - (a) 0.13 cubic metres of refrigerator storage space;
 - (b) 0.05 cubic metres of freezer storage space; and
 - (c) 0.30 cubic metres of lockable drawer or cupboard storage space.

4.4.1.4 Communal living areas and open space

- (1) Provide indoor communal living areas with a minimum area of 12.5sqm or 1.25sqm per resident and a width of 3 metres. The communal living area can include any dining area, but cannot include bedrooms, bathrooms, laundries, reception area, storage, kitchens, car parking, loading docks, driveways, clothes drying areas, corridors and the like.
- (2) Indoor communal living areas are to be located:
 - (a) near commonly used spaces, such as kitchen, laundry, lobby entry area, or manager's office, with transparent internal doors, to enable natural surveillance from resident circulation;
 - (b) adjacent to the communal open space;
 - (c) to receive a minimum 2 hours solar access to at least 50% of the windows during 9am and 3pm on 21 June;
 - (d) on each level of a multi-storey boarding house, where appropriate; and
 - (e) where they will have minimal impact on bedrooms and adjoining properties.
- (3) Communal open space is to be provided with a minimum area of 20sqm and a minimum dimension of 3m.
- (4) Communal outdoor open space is to be located and designed to:
 - (a) generally be north-facing to receive a minimum 2 hours solar access to at least 50% of the area during 9am and 3pm on 21 June;
 - (b) be provided at ground level in a courtyard or terrace area, where possible;
 - (c) provide partial cover from weather;
 - (d) incorporate soft or porous surfaces for 50% of the area;
 - (e) be connected to communal indoor spaces, such as kitchens or living areas;
 - (f) contain communal facilities such as barbecues, seating and pergolas where appropriate; and
 - (g) be screened from adjoining properties and the public domain with plantings, such as a trellis with climbing vines.
- (5) 30% of all bedrooms are to have access to private open space with a minimum area of 4sqm in the form of a balcony or terrace area.

4.4.1.5 Bathroom, laundry and drying facilities

- (1) Communal bathroom facilities accessible to all residents 24 hours per day are to be provided with at least:
 - (a) one wash basin, with hot and cold water, and one toilet for every 10 residents, or part thereof, for each occupant of a room that does not contain an en suite; and
 - (b) one shower or bath for every 10 residents, or part thereof, for each occupant of a room that does not contain a shower.
- (2) Laundry facilities are to be provided and include:
 - (a) one 5kg capacity automatic washing machine and one domestic dryer for every 12 residents or part thereof; and
 - (b) at least one large laundry tub with hot and cold running water.
- (3) Drying facilities, such as clotheslines located in a communal open space, are to be located to maximise solar access and ensure that the usability of the space is not comprised.

4.4.1.6 Amenity, safety and privacy

- (1) Boarding houses are to maintain a high level of resident amenity, safety and privacy by ensuring:
 - (a) communal spaces, including laundry, bathroom, kitchen and living areas are located in safe and accessible locations;
 - (b) bedrooms are located so that they are separate from significant noise sources and incorporate adequate sound insulation to provide reasonable amenity between bedrooms and external noise sources;
 - (c) structural fittings and fixtures for all internal rooms that enhance nonchemical pest management of the building, with all cracks and crevices sealed and insect screening to all openings;
 - (d) all appliances achieve an energy star rating of 3.5 or higher, unless otherwise legislated;
 - (e) where fewer than 12 occupants are accommodated, at least two bedrooms have north or east windows and at least one bedroom is adaptable for residents with a disability.
- (2) Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring buildings by locating:
 - (a) the main entry point at the front of the site, away from side boundary areas near adjoining properties;
 - (b) communal areas and bedroom windows away from the main living area or bedroom windows of any adjacent buildings;
 - (c) screen fencing, plantings, and acoustic barriers in appropriate locations; and
 - (d) double glazed windows where noise transmission affects neighbouring buildings.
- (3) The consent authority may request an acoustic report prepared by a suitably qualified acoustical consultant, if there is the potential for significant impacts from noise emissions. The investigation shall include, but not be limited to the following:
 - (a) the identification of sensitive noise receivers potentially impacted by the proposal;
 - (b) the quantification of the existing acoustic environment at the receiver locations;

- (c) the formulation of suitable assessment criteria;
 - (d) details of any acoustic control measures that will be incorporated into the proposal;
 - (e) the identification of all noise that is likely to emanate from the boarding house and the subsequent prediction of resultant noise at the identified sensitive receiver locations; and
 - (f) a statement certifying that the development is capable of operating without causing a nuisance or result in an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.
- (4) Boarding Houses classified as Class 3 by the BCA are to make private contracting arrangements for garbage disposal.
- (5) An application for a boarding house incorporating 75 or more bedrooms is to be supported by a Traffic Report prepared by a suitably qualified person, addressing as a minimum the following factors:
- (a) the prevailing traffic conditions;
 - (b) the likely impact of the proposed development on existing traffic flows and the surrounding street system;
 - (c) pedestrian and traffic safety; and
 - (d) an assessment of the impacts from any proposed on site parking.

4.4.1.7 Plan of Management

- (1) An operating 'Plan of Management' is to be submitted with a development application for demand for and new or existing boarding houses to ensure that it operates with minimal impact on adjoining owners and maintains a high level of amenity for residents. At a minimum, the Plan of Management is to include details of:
- (a) the boarding house staffing arrangements, including the location or 24 hour contact details of any on-site manager, off-site manager or resident caretaker, who has overall responsibility for the operation, administration, cleanliness, maintenance and fire safety of the premises;
 - (b) any house rules, including details of how they will be publicised to residents, that cover guest behaviour, activities and noise, visitor policy, and the use of alcohol or drugs and any other relevant rules;
 - (c) plans outlining the occupancy rate for each sleeping room, room furnishings, provisions of communal areas and facilities, and access and facilities for people with a disability;
 - (d) measures to minimise unreasonable impact to the habitable areas of adjoining properties, including the management of communal open spaces. For boarding houses located within residential areas or where adjoining sites contain residential activities this use of open space should be restricted to before 10pm;
 - (e) waste minimisation, recycling and collection arrangements, including the servicing of 'sharps' and sanitary napkin receptacles;
 - (f) professional cleaning and pest and vermin control arrangements, which, at a minimum, should include the weekly professional cleaning of shared facilities such as kitchens and bathrooms;
 - (g) safety and security measures, including, but not limited to:
 - (i) perimeter lighting;
 - (ii) surveillance or security camera systems;
 - (iii) fencing and secure gates;

- (iv) room and access key arrangements; and
- (v) a landline telephone for residents to ring emergency services; and
- (h) internal signage, including:
 - (i) the name and contact number of the property caretaker or manager;
 - (ii) emergency contact numbers for essential services;
 - (iii) house rules;
 - (iv) a copy of the annual fire safety statement and current fire safety schedule; and
 - (v) floor plans that will be permanently fixed to the inside of the door of each bedroom to indicate the available emergency egress routes from the respective bedroom.

4.4.2 Bulky goods retailing

Objectives

- (a) For bulky goods retail development to positively contribute to the streetscape and public domain with high quality architecture, materials and finishes.
- (b) Establish the requirements for bulky goods retailing including the minimum size of individual tenancies and ancillary retailing.

Provisions

- (1) An individual tenancy within a bulky goods retail development is to have a minimum sales floor area accessible to the public of 500sqm.
- (2) Cafes and fast food restaurants are only permissible in bulky goods tenancies with a sales area accessible to the public larger than 2,000sqm. The maximum size of a café or fast food restaurant is 150sqm.
- (3) Bulky goods retail developments are to be designed to:
 - (a) address and activate street frontages with large display windows;
 - (b) define and enhance the public domain and introduce setbacks consistent with surrounding development;
 - (c) be in scale with surrounding buildings;
 - (d) incorporate detail and architectural interest particularly at visually prominent building locations such as lower level front facades, roof tops and at the termination of street vistas;
 - (e) avoid ambiguously designed external spaces with poor pedestrian amenity and security;
 - (f) provide a clearly identifiable and dedicated pedestrian access to the building and across the site from the primary street frontage;
 - (g) create a visually interesting place for pedestrians, and where possible, connect the site and building to pedestrian and bike networks; and
 - (h) provide active uses that address the street and can be seen from the public domain.
- (4) Provide high ceilings and adaptable open planning for the ground and first floors to cater for different future uses of the building.

- (5) Retain and adaptively re-use buildings that significantly contribute to the streetscape.
- (6) Buildings are to be sited close to the street alignment, and designed so that key operational spaces are legible from the street.
- (7) Parking is not permitted between any street frontage and the building.
- (8) Public toilets are to be provided in a bulky goods retail development at the minimum rate of:
 - (a) 1 male toilet per 1,200 customers visiting the site per day;
 - (b) 1 male urinal per 600 customers visiting the site per day;
 - (c) 1 female toilet per 300 customers visiting the site per day; and
 - (d) 1 unisex disabled toilet.
- (9) A bulky goods retail development is to provide at least one independent non gender specific parent room.
- (10) Signage is not to cover windows or detract from the architectural quality of the building.
- (11) Where an allotment has frontages to a classified road and a local road, the development should provide vehicle access from the local road.

Note: Refer to www.rta.nsw.gov.au for the Schedule of Classified Roads.
- (12) Pick-up areas are to be provided to avoid the necessity for customers to carry large items to vehicles.
- (13) Development is to provide sufficient manoeuvring areas on site to accommodate large truck and bus movements, frequency of servicing, and high turnover of customer vehicles.
- (14) Prepare a staging plan for the development that addresses access to and from the site, building form and scale, landscaping and the location of breakout open space on site.

Figure 4.30
Bulky goods retail
development along
O'Riordan Street,
Alexandria



4.4.3 Car showrooms

Objective

- (a) Ensure the design of car showrooms positively contributes to the streetscape and public domain with high quality architecture, materials and finishes.

Figure 4.31

Car Showroom with large display windows and built close to the street alignment, South Dowling Street



Provisions

- (1) Development is to provide high ceilings and flexible open plan areas for the ground and first floor level.
- (2) The minimum site coverage required for car showrooms is 40% to avoid prominent expanses of parked cars and enable a well designed building that contributes to the street.
- (3) Retain and adaptively reuse an existing building where it positively contributes to the streetscape.
- (4) Design and locate car showrooms to:
 - (a) be close to the street alignment;
 - (b) include key operational and active spaces that can be seen from the street through large display windows;
 - (c) relate appropriately to the surrounding buildings;
 - (d) have continuous uniform setbacks with surrounding development;
 - (e) incorporate detail and architectural interest particularly at prominent building locations such as lower level front facades, roof tops and at the termination of street vistas;
 - (f) avoid ambiguous external spaces with poor pedestrian amenity and security; and
 - (g) enhance public open space and public streets.
- (5) Landscaping is to respond to the different street types as specified by the *Council's Street Tree Masterplan 2011*.
- (6) The storage of any vehicles on site must be behind the front building line and to the rear of the site.

- (7) Signage is not permitted to cover architectural fenestration or detract from the architectural quality of the building design.

4.4.4 Child care centres

Applicants should refer to the City of Sydney Childcare Centres Guideline for more information.

Objectives

- (a) Establish child care centres that are well designed and meet the needs of children in terms of design, amenity, health, access and safety.
- (b) Ensure child care centres do not unreasonably impact on the amenity of surrounding residences.
- (c) Ensure that a child care centre is provided where a development generates the need for an increase in child care facilities.
- (d) Encourage child care centres in new commercial and residential development based on the need generated by the new development.
- (e) Consider the need for child care centres in the preparation of site specific DCPs and stage 1 development applications.

Provisions

4.4.4.1 Site specific DCPs and stage 1 development applications

- (1) The planning and design provisions of this section are to be applied when developing a site specific DCP or stage 1 development application.

4.4.4.2 Allocation of child care places

- (1) Proposals for child care centres are to:
 - (a) Not exceed 90 child care places;
 - (b) Provide a minimum of 33% of childcare places for children aged under two years.
- (2) Child care places in residential development are encouraged to be provided on the basis of 6 child care places per 100 households.
- (3) Child care places in commercial development are encouraged to be provided on the basis of 1 child care place per 1,450sqm of GFA.

4.4.4.3 Location

It is recognised there may be a need to accommodate above ground level child care centres higher density areas. Child Care Centres may be located above the ground level where it is not possible to provide them at ground level.

- (1) Child care centre may be located above the ground floor when:
 - (a) there are no viable alternatives for a location at ground level in the building or the surrounding site;
 - (b) the location of the child care centre at the ground level will detrimentally impact the significance of the heritage item;
 - (c) access to outdoor space is available; and
 - (d) emergency access and egress points are suitable.
- (2) Child care centres are not to be located:
 - (a) within sight of injecting rooms, drug treatment clinics, sex industry premises and other such uses; or

- (b) within no through roads unless, in the opinion of the consent authority, there would be adequate parking and turning space either within the roadway or the centre grounds; or
 - (c) in close proximity to cooling towers; or
 - (d) where there are undue health risks on the site or in the vicinity.
- (3) Child care centres are not to have direct street frontage access to a classified road, or any other road which in the opinion of the consent authority is unsuitable for a child care centre, having regard to:
 - (a) the prevailing traffic conditions;
 - (b) pedestrian and vehicle safety; and
 - (c) the likely impact of the development on traffic.
- (4) Where a child care centre is proposed within 300m of a mobile phone tower or base station, a transmission line easement, or other source of significant electromagnetic radiation, a report prepared by a suitably qualified person assessing the potential exposure impact on the centre and its occupants must accompany the development application. The report must detail how the proposal complies with relevant Australian Standards.

4.4.4.4 Design of play areas

- (1) Indoor play areas must have:
 - (a) access to sunlight, natural ventilation and views to the outdoors;
 - (b) convenient access between indoor and outdoor areas; and
 - (c) enable clear lines of sight to allow for staff to supervise from other areas of the child care centre.
- (2) Outdoor areas are to be located away from:
 - (a) areas where objects can be dropped from above onto play areas;
 - (b) main entrances, car parking areas, vehicle circulation areas, existing noise and environmental pollution sources; and
 - (c) living and bedroom windows of surrounding dwellings in predominantly residential areas.
- (3) Outdoor areas must:
 - (a) be a minimum size of 7sqm of usable outdoor space per child;
 - (b) provide space for active play;
 - (c) be provided with at least 3 hours of solar access to 50% of the required outdoor area between 9am and 3pm on 22 June;
 - (d) be directly accessible from indoor areas;
 - (e) enable clear lines of sight to all outdoor areas to allow staff to supervise from other areas of the child care centre;
 - (f) be secure from public access except to provide emergency evacuation or for deliveries such as sand replacement;
 - (g) have gates which are self-closing and child proof, with child-proof locks and latches and which are able to be permanently locked;
 - (h) provide separate areas for different age groups that suit their needs and abilities;

- (i) include landscaping which creates visual interest and provides shading where appropriate; and
 - (j) be designed to protect users of the area from adverse wind, solar and other dramatic conditions.
- (4) Outdoor areas are to be adequately fenced on all sides, with a minimum height of 1.8m and are to:
 - (a) provide for the safety and security of children;
 - (b) prevent children climbing over, under or through fences and leaving the premises unsupervised;
 - (c) prevent persons from outside the centre accessing the site;
 - (d) be designed so that the fence is integrated with the building design and landscape through materials and colours;
 - (e) the integration with existing and proposed landscaping; and
 - (f) prevent objects being thrown over the edge where outdoor areas are elevated.
- (5) A proportion of the required outdoor space may be provided as indoor area, but only where:
 - (a) the location of the child care centre makes it impracticable to provide the required amount of useable play space outdoors;
 - (b) the area provided is in addition to other indoor space requirements;
 - (c) the indoor area is designed and equipped to permit children to participate in activities that promote gross motor skills;
 - (d) the area has a northern orientation for access to sunlight; and
 - (e) the floor to ceiling heights are higher than those in the rest of the child care centre.

4.4.4.5 Control of noise impacts to child care centres

- (1) An operational Plan of Management is to be submitted with any application to allow consideration of potential noise impacts.
- (2) The repeatable maximum LAeq1hour must not exceed 40 dBA (Leq1hr) within the internal spaces of the child care centre.
- (3) An acoustic assessment, including recommended noise attenuation measures and prepared by a suitably qualified acoustic consultant must be submitted with the development application to demonstrate that these provisions can be achieved.

4.4.4.6 Parking and pedestrian safety

- (1) Vehicle and pedestrian access points are to be appropriately marked and sign posted.
- (2) Vehicles must be able to enter and leave the site in a forward direction.
- (3) Areas used by vehicles must be separated from areas used by children with appropriate fencing and gates.
- (4) Where parking spaces are within a mixed use development, the spaces for the child care centre are to be located and grouped together and conveniently located near the access point to the centre.

4.4.4.7 Safety and security

- (1) Public entry to a child care centre is to be limited to one secure point which is:
 - (a) located to ensure easy access;
 - (b) adequately signposted and well lit;
 - (c) located away from areas used by vehicles;
 - (d) visible from the street, or visible from a building foyer if located within a multi-unit building;
 - (e) not accessed through outdoor space used by children;
 - (f) of a sufficient size to prevent congestion, consider the capacity of the child care centre;
 - (g) monitored through either natural or camera surveillance; and
 - (h) to incorporate a transitional space between the entry point and entrance into the child care centre.
- (2) Entry into the child care centre must be limited to authorised persons only, through the provision of an electronic security system, for example, swipe cards.
- (3) Incorporate windows on the front façade to enable natural surveillance.

4.4.4.8 Additional considerations for child care centres located above ground level

- (1) The child care centre is to be provided with either a safe haven or an emergency lift within the centre.
- (2) The safe haven is to:
 - (a) be centrally located within the child care centre, and open directly onto a dedicated fire-isolated stair; and
 - (b) have a floor area calculated at a rate of 0.25sqm per person for the capacity of the child care centre, including staff.
- (3) Indoor areas are to be well proportioned to provide flexibility of uses and should be uninterrupted by internal features such as columns.
- (4) Playrooms should be enclosed by floor to ceiling height glass.
- (5) The design and location of the required outdoor space is to:
 - (a) include measures that will protect users of the space from adverse wind and climatic conditions; and
 - (b) incorporate fencing that:
 - (i) is unable to be climbed over, under or through by children;
 - (ii) includes a safety zone and alarm system;
 - (iii) prevents objects being thrown over the edge where outdoor areas are elevated;
 - (iv) allows egress in the event of an emergency evacuation by the Fire Brigade or others, consistent with the required Emergency Evacuation Plan; and
 - (c) be integrated with the building design.

4.4.5 Convenience stores

Objective

- (a) Minimise potential adverse amenity impacts from convenience stores on the streetscape and surrounding properties.

Provisions

- (1) Prevent adverse impacts on the streetscape and local amenity from excessive advertising signage. Limit each store to:
 - (a) one under awning sign, or where no awning exists, one horizontally projecting wall sign, if appropriate in its local context. Signs are to have maximum dimensions of 2.5m by 0.3m with a minimum vertical clearance of 2.7m above the footpath and may be illuminated, but not flashing;
 - (b) one non-illuminated awning fascia sign with a maximum length of 3m and a height of no greater than the awning fascia; and
 - (c) one window or flush mounted wall sign (which may be illuminated) with a maximum area of 1sqm and designed to fit within the architectural style of the shop front. If the sign is a hamper sign, it must comply with the Signage and Advertising provisions within Section 3.16 of this DCP.
- (2) Convenience stores must not to have:
 - (a) corporate paint schemes and logos that present the exterior of the shop or building as an advertising panel;
 - (b) signage, banners or corporate paint schemes above awning level;
 - (c) external free-standing signs, including sandwich boards;
 - (d) banners, flags and promotional materials, either externally or internally adjacent to windows, excluding public transport information;
 - (e) decals, opaque films, and stickers attached to shopfronts and windows.
- (3) Shopfront windows must be clear of all obstructions to enable viewing into the shop from the public domain.
- (4) Signage may be further restricted where the store is in a heritage item or heritage conservation areas.
- (5) Illumination that impacts on the streetscape and local amenity and is considered excessive for the reasonable and necessary carrying out of the business will not be permitted.
- (6) Illumination, when measured from any place in the public domain is not to exceed:
 - (a) within Central Sydney, a maximum horizontal illuminance level of 220lux including the reflectivity of exterior finishes;
 - (b) outside Central Sydney, a maximum horizontal illuminance level of 200lux including the reflectivity of exterior finishes; and
 - (c) the horizontal illuminance uniformity ratio (E_{avg}/E_{min}) of 4:1 to ensure safe movement of pedestrians.
- (7) Demonstrate that lighting will not be directed towards any nearby residence including those located above the store.

- (8) If, at any time in the opinion of Council, adverse impact is being caused to the amenity of the area, the intensity, colour and hours of illumination of convenience stores and associated signage are to be changed to mitigate that impact.
- (9) The following types of illumination are not permitted:
 - (a) lighting located above the awning, spotlights, fluorescent lighting, flashing lights, neon tubes or neon writing either internally adjacent to windows or external; and
 - (b) illuminated signs and lighting in addition to that normally required to illuminate the retail floor area and is mounted within 2m of the windows.
- (10) Prevent unsympathetic changes to buildings and streetscapes from the installation of standardised shopfronts:
 - (a) internal and external changes to the building are to avoid removing or replacing architectural elements where elements positively reflect the style and character of the building and contribute to the , the architectural character and the streetscape;
 - (b) the design of new building work is to be sympathetic with the architectural style and heritage significance of both the building and the street;
 - (c) the application is to show all fittings and features to be removed or replaced as part of the fit-out of the premises; and
 - (d) shelving and machinery are not to be placed within 1m of the shopfront.
- (11) To prevent loss of amenity to residents and pedestrians from poorly located or managed convenience stores, each application for a convenience store is to be accompanied by a Plan of Management to describe how on-going operations will be managed with respect to:
 - (a) deliveries and services including the frequency, timing and location of parking and loading areas;
 - (b) location of adequate storage areas for merchandise, rubbish, recycled and reusable packaging materials;
 - (c) the minimisation, recycling and clean-up of the litter is in the vicinity of the store and from the merchandise sold; and
 - (d) security threats to staff and customers, including details about closed circuit television, internal and external view lines, heights of shelving greater than 1.2m above floor level, internal mirrors, security lighting and staffing numbers.
- (12) The Plan of Management is to include requirements about the on-going management of the premises that arise from any conditions placed on the Development Consent, if granted.

4.4.6 Sex industry premises and adult entertainment

Refer to the City of Sydney Sex Industry and Adult Entertainment Premises Guideline for supporting information.

Definitions

Adult entertainment premises means a premises that:

- (a) provides entertainment involving nude or semi-nude performers; or
- (b) sells or shows restricted material but at which sex services or sexual activity between people does not occur.

Brothel as defined in the *Restricted Premises Act 1943*, means a premises:

- (a) habitually used for the purposes of prostitution, or
- (b) that have been used for the purposes of prostitution and are likely to be used again for that purposes, or
- (c) that have been expressly or implicitly:
 - (i) advertised (whether by advertisements in or on the premises, newspapers, directories or the internet or by other means), or
 - (ii) represented as being used for the purposes of prostitution, and that are likely to be used for the purposes of prostitution.

Home occupation (sex services) as defined in the *Sydney LEP 2012* means the provision of sex services in a dwelling that is a brothel, or in a building that is a brothel and is ancillary to such a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
- (c) the exhibition of any signage, or
- (d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,
- (e) but does not include a home business or sex services premises.

Performance area means an area in a striptease club premises where striptease acts, tabletop, or podium performances, or peepshows are performed and includes private performance areas and peepshow booths.

Primary access means the entrance or exit, determined by the consent authority, to be the main access or egress for visitors, and may consist of direct street level entrances and exits, or the primary entrance or exit to a building, part of a building or site containing adult entertainment or sex industry premises.

Restricted material means publications classified Category 1 restricted, Category 2 restricted or RC under the (Cth) *Classification (Publications, Films and Computer Games) Act 1995*.

Restricted premises, as defined in the *Sydney LEP 2012*, means premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises, but does not include a pub, hotel or motel accommodation, home occupation (sex services) or sex services premises.

Sensitive land use includes day care or child-minding centres, primary or secondary schools, places of worship, parks, playgrounds, or any other place regularly frequented by children.

Sex industry premises means:

- (a) sex service premises, and
- (b) premises used for sex between clients, but where sex services do not take place in exchange for payment, for example, sex on premises venues or swingers clubs.

Sex on premises venue means a premises that gains income from an entrance or membership fee paid to use the premises for sex between the clients but are not premises where sex services take place, or are arranged in exchange for payment. Sex on premises venues include swingers clubs and sauna clubs that accommodate sexual encounters.

Sex services as defined in the *Sydney LEP 2012*, means sexual acts or sexual services in exchange for payment. For the purposes of these provisions, sexual acts or sexual services include acts of prostitution, including sexual intercourse as defined in s61A of the Crimes Act 1900, being:

- (a) sexual connection occasioned by the penetration to any extent of the genitalia, including surgically constructed vagina of a female person or the anus of any person by:
 - (i) any part of the body of another person, or
 - (ii) any object manipulated by another person
 except where the penetration is carried out for proper medical purposes, or
- (b) sexual connection occasioned by the introduction of any part of the penis of a person into the mouth of another person, or
- (c) cunnilingus, or
- (d) the continuation of sexual intercourse as defined above.

Sex service premises as defined in the *Sydney LEP 2012* means a brothel, but does not include home occupation (sex services).

Spruikers means persons located in the public domain who seek to entice customers to enter premises.

Staff means persons working at, or providing services to, a premises and may include a person directly employed by the premises or business, or a contractor working at or from the premises.

Striptease club means premises providing striptease acts, erotic dancing (including pole dancing), tabletop, or podium performances, private dancing, peepshows, or nude or semi nude bar or waiting staff but where sex services do take place on site.

Working room means a place where sexual activity occurs within a brothel.

Application

Where more than one type of sex industry or adult entertainment use is proposed for a site:

- (a) the proposal will be considered as a single premises for the purposes of the location provisions only;
- (b) the proposal will be assessed as two or more separate uses and the relevant provisions will be applied to each use; and
- (c) the different uses must be clearly identified in the development application and Plan of Management.

These provisions, including the location of premises provisions in Section 4.4.6.1, apply equally to proposals that intensify an existing adult entertainment or sex industry premises. Intensification of use may occur through, for example, the introduction of a new use, an increase in the number of working rooms, an increase in the number or size of sexual activity areas, or an increase in floor area.

Exemption may be given to works proposed to an existing adult entertainment or sex industry premises where the consent authority considers those works to be of a minor nature.

Note: Section 17 of the *Summary Offences Act 1988* makes it an offence for an owner, occupier, manager, or person assisting in the management of a premises held out as being for: 'massage, sauna baths, steam baths, facilities for physical exercise, taking of photographs or services of a like nature' to knowingly allow or permit the premises to be used for prostitution or soliciting for prostitution.

Where development consent is sought for massage premises, additional information demonstrating measures to ensure compliance with this law may be required. Massage businesses, or any other businesses providing sex services are sex service premises.

It is an offence under the *NSW Liquor Act 2007* to allow sex services to take place in premises that also have a liquor license.

Objectives

- (a) Provide criteria for the location, design and ongoing management of premises used for the purpose of adult entertainment and sex industry uses to:
 - (i) address the health and safety of staff and visitors;
 - (ii) minimise adverse impacts that may be generated by the premises including traffic and noise; and
 - (iii) ensure high levels of internal and external amenity.
- (b) Ensure sex service premises do not interfere with the amenity of the neighbourhood.

Provisions

4.4.6.1 Location of Premises

- (1) Adult entertainment and sex industry premises must not be located:
 - (a) within buildings containing a residential use;
 - (b) immediately adjacent or directly opposite land developed for residential purposes;
 - (c) adjacent or directly opposite a sensitive land use as defined in the definitions above unless separated by at least:
 - (i) one other non-sensitive land use; or
 - (ii) a waterway, an un-developed site or a road, each of which are to be greater than 30m in width; or
 - (iii) within a radius of 75m of an existing, approved adult entertainment or sex industry premise as measured from the centre of the primary access to the proposed and existing premises. This includes premises located within a neighbouring local government area.

4.4.6.2 Design of Premises

- (1) All entrances and exits are to be:
 - (a) designed to facilitate the privacy of staff and visitors without compromising personal safety;
 - (b) visible from public areas and not obstructed by any existing or proposed landscaping;
 - (c) provided with adequate lighting; and
 - (d) designed to maximise surveillance and safety.
- (2) The external appearance of the premises must ensure is not a prominent feature in the street.
- (3) Premises are to be clearly numbered, with the number clearly visible from the street, subject to the signage provisions under Section 3.16.
- (4) There must be no display of restricted material, sex-related products, sex workers, performers, or nude or semi-dressed staff in windows or doors, or outside the premises.

- (5) The interior of the premises must not be visible from any place in the public domain.
- (6) Where the interior is visible from neighbouring buildings, adequate measures are to be taken to screen the interior of the building, for example through the use of blinds or screens.

4.4.6.3 Scale of sex services premises

- (1) The consent authority may exercise discretion for an increase in the number of working rooms in a sex services premises where it can be demonstrated that the site can accommodate additional working rooms without adverse impacts, including traffic generation, noise and other amenity impacts on the surrounding area.

4.4.6.4 Health, safety and security

- (1) All adult entertainment and sex industry premises must include measures that provide for and ensure adequate health, safety and security of staff and visitors including where appropriate:
 - (a) the separation of reception and waiting rooms from other areas, such as working rooms and staff areas;
 - (b) the elimination or minimisation of alcoves and other potential entrapment spaces; and
 - (c) safety and surveillance systems.
- (2) Activities involving specialist equipment such as slings, poles, douching facilities, restraints, suspension equipment or performance props, must ensure the safety of participants and comply with the Building Code of Australia (BCA) and any relevant Australian Standards.
- (3) Ensure the health and safety of all staff and visitors is facilitated with well designed facilities that are maintained in accordance with Council policies and guidelines.
- (4) Utilise operations and procedures that prevent transmission of infection and reduce the risk of violence and crime at all times.
- (5) Provide adequate lighting in working rooms and sexual activity areas to enable checking for signs of sexually transmitted infections and effective cleaning procedures.
- (6) At a minimum, sex service premises and striptease club premises are to provide the following staff facilities:
 - (a) sanitary facilities including toilet, hand basin and shower;
 - (b) a rest area with seating;
 - (c) a dining area with food preparation and storage areas;
 - (d) a sink with hot and cold running water, water boiling facilities and fridge; and
 - (e) lockers to store personal belongings.
- (7) The facilities must be located within the premises, adjacent to and accessible from work areas, and in a secure area that is inaccessible to visitors to prevent inadvertent client contact.
- (8) Provide secure entry and controlled internal and external access, preferably with remote door release mechanisms.
- (9) Design working rooms and sexual activity areas that enable external entry in case of emergency and allow persons within the room to communicate with others outside the room.

- (10) Where a sex services premises contains three or more working rooms, all working rooms and staff areas must be provided with intercoms or duress alarm systems linked to a central base and monitored at all times.
- (11) Design of private performance areas and rooms must include secure entry and controlled access, and a duress alarm system linked to a central base that is monitored at all times.
- (12) Provide separate storage spaces for both soiled and clean linen, and safe sex equipment.
- (13) Design dressing rooms for the sole use of performers in striptease clubs that include:
 - (a) adequate preparation facilities restricted from visitor access and located adjacent to performance areas; and
 - (b) intercom or duress alarm systems linked to a central base and monitored at all times.
- (14) Facilities for the preparation of beverages for clients are to comply with the relevant Australian Standard.
- (15) All stages, podiums and other performance areas are to be:
 - (a) no smaller than 2.5sqm;
 - (b) a minimum of 0.5m from the floor;
 - (c) with a minimum clearance of 2.5m from the ceiling;
 - (d) provided with a railing of a height no less than 150mm around all open edges or a balustrade, where required to comply with the BCA; and
 - (e) provided with a non-slip surface.
- (16) Spruikers are not permitted in association with the operation of any adult entertainment or sex industry premises.

4.4.6.5 Signs

Refer to Section 3.16 for additional objectives and provisions relating to signage in the Darlinghurst Road precinct.

- (1) Signs for adult entertainment and sex industry premises must:
 - (a) not interfere with the amenity of the locality;
 - (b) not exceed 600mm in height or width;
 - (c) not contain neon, illumination, animation or flashing lights, except in the Darlinghurst Road signage precinct; and
 - (d) set out:
 - (i) the name of the person who conducts the business at the restricted premises or sex services premises or the registered name of the business carried on at the restricted premises or sex services premises; and
 - (ii) in the case of development for the purpose of restricted premises, the words "RESTRICTED PREMISES" in capital letters not more than 50mm in height.
- (2) No more than one sign is to be displayed to public view in the window, or on the building, or in, outside, or directly above an access way to the restricted premises or brothel, where permitted by the provisions of this DCP for the Darlinghurst Road signage precinct.

4.4.6.6 Management of operations

- (1) Applications for adult entertainment and sex industry premises must be accompanied by a Plan of Management describing how ongoing operations are to be managed with respect to:
 - (a) identifying security staff, or other staff or contractors who may, as part of their responsibilities, need to work outside the premises; and
 - (b) systems for ensuring safety for staff and visitors including:
 - (i) risk management procedures appropriate to the nature of the proposed activities, for example accident and injury, violent behaviour;
 - (ii) procedures that respond to situations where staff are placed under duress;
 - (iii) the number and role of security personnel; and
 - (iv) procedures for the safe handling of money;
 - (c) providing access for the attendance of health service providers;
 - (d) cleaning and cleanliness, including details of:
 - (i) cleaning systems and procedures including methods, frequency and staff allocations;
 - (ii) the surface materials of equipment and facilities;
 - (iii) cleaning products and equipment to be used;
 - (iv) identified areas for cleaning equipment and other removable items; and
 - (v) cleaning and management systems for swimming pools and spas where applicable;
 - (e) waste management, including details for:
 - (i) the disposal of commercial waste;
 - (ii) managing the safe disposal of sharps; and
 - (iii) how any specialist equipment is to be used, cleaned and maintained.
- (2) The Plan of Management must include:
 - (a) the name and contact details of the proprietor and operator;
 - (b) the registered business name and trading name of the premises;
 - (c) comprehensive details of all health and safety procedures for staff providing services on the premises and providing services offsite;
 - (d) details of training and induction procedures to ensure that staff are aware of health and safety procedures and the provisions of the Plan of Management; and
 - (e) any requirements in respect to the on-going management of the premises that arise from any conditions placed on the Development Consent, if granted.
- (3) The operator and manager of the premises are to ensure compliance with the approved Plan of Management.

- (4) Where the Plan of Management relates to sex industry premises, it is to include the following additional information:
 - (a) details of the provision, storage and cleaning of linen and mattresses or other sexual activity surfaces;
 - (b) details of the provision and storage of condoms, safe sex products and other equipment; and
 - (c) procedures that support the health and safety of sex worker staff and sex on premises venue customers, including health education.
- (5) Where the Plan of Management relates to premises used for bondage and discipline or where otherwise required by Council due to the nature of the activities proposed for the premises, it is to include the following additional information:
 - (a) details of all activities likely to be conducted on the premises that may be high risk conduct including:
 - (i) documentation about how the activities will be undertaken in a safe manner; and
 - (ii) procedures to control infection, with details for each separate activity, including the safe practice of each activity, cleaning and disinfection methods and agents, and any sterilisation procedures;
 - (b) induction and training procedures that enable workers to perform skilled or higher risk activities only after they have been trained in the procedures and observed by experienced staff performing these safely; and
 - (c) monitoring and safety strategies, both within the working rooms and through external monitoring of the working room by other staff or management.

4.4.7 Telecommunications

The following objectives and provisions apply to telecommunication and radio communications facilities, its supporting infrastructure and ancillary development under the following legislation:

- *Telecommunications Act 1997*;
- *Telecommunications Code of Practice 1997*;
- *Radiocommunications Act 1992*; and
- *Telecommunications (Low-impact Facilities) Determination 1997 [LIF Determination]*.

The City of Sydney does not have regulatory control over “low impact facilities”. These are facilities are described in the *Telecommunications (Low Impact Facilities) Determination 1997* which also exempts them from State and Territory planning and environmental laws.

Development consent is required for facilities that are not “low impact facilities” as described in the “non-low impact” facilities under the terms of the *Environmental Planning and Assessment Act 1979*.

The *Telecommunications Code of Practice 1997* (TCoP 1997) does not directly require a Carrier to notify a council of their intent to construct a low-impact facility unless Council is the landowner or occupier of the land. There is no direct provision for a Council to object to a notice provided under Chapter 4 of the TCoP 1997 unless it is the landowner or occupier.

While this DCP cannot override the *Telecommunications (Low-Impact Facilities) Determination 1997*, it is the City's intention that service providers use the controls within this DCP as a guideline for the siting and construction of any telecommunication and radiocommunication facilities within the City of Sydney. Telecommunications facilities that are not covered by the *Telecommunications Act 1997* or a determination are likely to require approval under state or territory law, usually at the local government level.

The types of facilities that require local council planning approval include broadband overhead cable and all freestanding mobile phone towers.

This DCP does not apply to a number of temporary facilities including but not limited to those for a defence organisation and use for defence purposes as described under the *Telecommunications Act 1997*. In addition, other facilities as described in Division 4 of Part 1.4 of the *Radiocommunications Act 1992* describes may also be exempt.

Definitions

Environmental significance refers to areas of environmental significance as identified in the *Telecommunications Act 1997* made by the Australian Federal Government.

Low impact facility (LIF) means a telecommunications facility exempted from State and Council planning control under the Telecommunication Act 1997.

Non-Low impact facility – means a telecommunications facility that is NOT exempted from State and Council planning control under the *Telecommunications Act 1997*.

Sensitive land use includes day care or child-minding centres, primary or secondary schools, places of worship, parks, playgrounds, or any other place regularly frequented by children.

Objectives

- (a) Provide for the effective, efficient and equitable provision of telecommunications and radio communications facilities.
- (b) Ensure facilities are designed to be visually compatible with the environmental character and visual context of the surrounding locality with particular regard to heritage items and heritage conservation areas.

Provisions

- (1) The design and installation of telecommunication and radio communication facilities, and associated infrastructure is to achieve compliance with relevant Australian Standards, and the Australian Communications and Media Authority (ACMA) guide "Accessing and Installing Telecommunications Facilities – A Guide, 1999".
- (2) The application is to demonstrate that:
 - (a) the proposed facility complies with the relevant Australian exposure standard as specified by the ACMA and certification;
 - (b) a precautionary approach has been adopted for site selection to minimise impact from electromagnetic radiation exposures (EMR), consistent with Section 5.1 Objectives of the Australian Industry Communications Code (ACIF Code); and
 - (c) the consideration of the results of a mapped analysis of the cumulative electromagnetic radiation exposures (EMR) effect of the proposal. The location and design of the facility has been determined to minimise EMR exposure to the public.
- (3) Noise caused by the facility must not result in the transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* or any subsequent relevant Act to any place of habitable use.

- (4) Proposals are to consider the range of available alternative infrastructure, including new technologies, to minimise unnecessary or incidental EMR emissions and exposures, as required under Section 5.2.3 of the ACIF Code.
- (5) Facilities are not to be located within 300m of a sensitive land use.
- (6) The design of the facility is to include measures that restrict public access to the antenna. Approaches to the antenna are to contain signage warning of EMR and provide contact details for the owner or manager of the facility.
- (7) Antennae and supporting infrastructure must minimise the visual impact from the public domain and adjacent areas and avoid or minimise visual impact on nearby Heritage Items and heritage conservation areas. The *Telecommunications (Low-impact Facilities) Determination 1997* excludes facilities proposed on heritage listed property from being 'low impact'. A development application is required for these facilities on heritage items.
- (8) A development application for a telecommunications facility on a heritage item must be accompanied by a Conservation Management Plan or a Heritage Impact Statement in accordance with the heritage requirements of this DCP.
- (9) Upmost care is to be taken to protect and conserve any potential archaeological relics, places and sites identified or revealed in the course of undertaking the development.
- (10) Facilities and associated infrastructure must:
 - (a) be finished in colours selected to match the colour scheme of the building unless the consent authority agrees otherwise;
 - (b) integrated with the existing building including being suitably proportioned in relation to the size of the building);
 - (c) have concealed cables where practical and be unobtrusive.
- (11) Where practicable, telecommunication lines are to be located within an existing underground conduit or duct, and antennae and similar structures must be attached to existing utility poles, towers, structures, buildings or other telecommunication facilities subject to EMR exposure considerations.
- (12) Locate facilities away from the street frontage or any public or private property adjacent to the site and adequately set back from the perimeter wall or roof edge of buildings.
- (13) Facilities no longer in operation are to be removed.
- (14) Facilities are not to encroach upon any easement, right-of-way, vehicular access or parking spaces required for the property.

4.4.8 Visitor accommodation

The following objectives and provisions apply to visitor accommodation including the conversion, alterations or additions to existing visitor accommodation. Visitor accommodation includes hotels, motels, guesthouses, backpacker accommodation, bed and breakfast accommodation and serviced apartments for the temporary accommodation of travellers, visitors and tourists.

Objectives

- (a) Ensure the design, development and management of visitor accommodation provides acceptable levels of health, safety, cleanliness, amenity and administration for guests, whilst not adversely impacting on the amenity of the surrounding locality.
- (b) Ensure serviced apartment developments provide a level of health and amenity for residents to ensure any future conversion to residential flats is not compromised by poor amenity.

- (c) Encourage a mix of serviced apartment sizes to provide choice.
- (d) Ensure backpacker accommodation is located within close proximity to public transport, services and facilities and away from predominantly residential uses.

Provisions

4.4.8.1 General

- (1) New development must be self contained with no common access ways with adjoining properties.
- (2) A site manager must be on site when guests have access to the premises. For premises with less than 20 residents, a resident caretaker may be acceptable.
- (3) For safety reasons, sleeping rooms are not to include triple-tier bunks and cooking facilities in sleeping rooms.
- (4) Internal partitions must be considered within sleeping rooms to provide privacy between beds.
- (5) All toilet and shower facilities, including communal facilities, are to be screened for privacy.
- (6) A Plan of Management and a Noise Management Plan must be submitted with the development application.

4.4.8.2 Additional provisions for bed and breakfast accommodation

- (1) The accommodation is to be occupied and operated by a permanent resident.
- (2) Persons not permanently residing on the site must not be employed to assist in the operation of the business.
- (3) The occupancy rate of each sleeping room must not exceed 2 adults and 1 child.
- (4) The maximum permitted length of stay is 3 months.
- (5) Individual secure lockable storage facilities with a minimum capacity of 0.6 cubic metres per person are to be provided to allow guests to individually store baggage and travel items within the sleeping room.
- (6) Where dead locks are provided on guest bedrooms and exit doors, they must be able to be opened from the inside with a key.
- (7) Windows to guest bedrooms are not to include bars or other restrictions to egress.
- (8) Kitchens whether provided for use of guests or for the preparation of food for guests, must contain:
 - (a) a single or double bowl sink;
 - (b) a commercial grade dishwasher capable of heating water to a minimum of 60 degrees celsius; and
 - (c) a separate hand wash basin in addition to any single or double bowl sink.
- (9) Cooking facilities or kitchenettes are not permitted within sleeping rooms.
- (10) Provide a minimum of 1 fully equipped bathroom with a bath or shower, a toilet and wash basin, in addition to a fully equipped bathroom for the permanent residents.

4.4.8.3 Additional provisions for hotels, private hotels and motels

- (1) The maximum number of persons accommodated in a bedroom or dormitory is to be determined on the basis of a minimum of:
 - (a) 3.25sqm per person per sleeping room; and
 - (b) 5.5sqm per person for rooms occupied by guests staying longer than 28 days.
- (2) The maximum permitted length of stay is 3 months.
- (3) Where accommodation is provided for more than 28 consecutive days, no more than two adults and one child are permitted per room.
- (4) Individual, secure, lockable storage facilities of a minimum capacity of 0.6 cubic metres per person is to be provided to allow guests to individually store baggage and travel items within the sleeping room.
- (5) Where rooms include a small kitchenette, provide adequate cupboards and shelves.

4.4.8.4 Additional provisions for backpacker accommodation

- (1) Backpacker accommodation is to be located within 400m of public transport and within easy access to facilities and services.
- (2) For sleeping rooms:
 - (a) the maximum number of persons to be accommodated in a bedroom, or in a dormitory, must be determined on the basis of 3.25sqm per person per sleeping room;
 - (b) shared or dormitory-style accommodation in a single room must not accommodate more than 8 guests;
 - (c) the maximum length of stay for guests is 28 consecutive days;
 - (d) individual, secure lockable storage facilities of a minimum capacity of 0.6 cubic metres per person is to be provided to allow guests to individually store baggage and travel items within the sleeping room; and
 - (e) where the premises comprise more than 30 beds, a range of room sizes and bed types are to be provided.
- (3) Communal recreational areas:
 - (a) are to be provided within the premises at a rate of 0.75sqm per person based on the maximum number of guests;
 - (b) are to be a minimum total floor area of 20sqm with a minimum width of 3m where the maximum number of guests is less than 30; and
 - (c) are to be provided internally where possible and in addition to any outdoor communal recreation area. Dining areas may be included as a communal recreation area.

Note: The floor area of bedrooms, bathrooms, laundries, reception area, storage, kitchens, car parking, loading docks, driveways, clothes drying areas, corridors and the like do not count towards the calculation of the required communal recreation area.
- (4) Where communal outdoor facilities are proposed:
 - (a) they should generally be no greater than 20% of the total communal recreational area;
 - (b) the design and location is to ensure that the noise impact to surrounding property is minimised;

- (c) the use should be restricted to before 10pm, particularly if there are residential uses nearby; and
 - (d) details on the management of the space including any restricted hours of access, for example, no access later than 10:30pm, are to be included in the Plan of Management.
- (5) For kitchen and dining areas:
 - (a) an internal self-catering kitchen and a separate dining room for use by guests is to be provided with capacity for at least 15% of the maximum number of guests to prepare and consume meals at any one time; and
 - (b) cooking facilities or kitchenettes are not permitted in sleeping rooms.
- (6) For bathrooms:
 - (a) toilets are to be in a separate compartment from common showers and bathrooms;
 - (b) a minimum of one bathroom for males and one bathroom for females is to be provided;
 - (c) walls separating toilet and shower compartments in single sex facilities, must be a minimum of 1.8m high and a maximum 250mm off the ground; and
 - (d) in unisex facilities, partitions separating adjacent compartments are to extend from floor level to ceiling.
- (7) Provide the following laundry facilities for every 50 occupants or part thereof:
 - (a) a washtub, clothes washing machine;
 - (b) a clothes dryer, or a clothesline with a minimum length of 20m and which can be retractable in an outdoor area or drying room.
- (8) Provide the following additional rooms:
 - (a) a staff room;
 - (b) a site manager's office;
 - (c) a sleeping room where there is to be a resident and caretaker and is not a shared or dormitory room.

4.4.8.5 Additional provisions for serviced apartments

- (1) The maximum number of persons accommodated in a bedroom or dormitory is to be determined on the basis of a minimum of:
 - (a) 5.5sqm per occupant staying more than 28 consecutive days;
 - (b) or 3.25sqm per occupant staying 28 or less consecutive days in accordance with the *Public Health (General) Regulation 2002*.
- (2) Serviced apartments are to be designed so that the level of residential amenity within each apartment is equivalent to the requirements of a residential flat development.
- (3) Visitor accommodation including serviced apartments and residential apartments must not co-exist on the same floor of any building. The two uses may only co-exist in the same building if:
 - (a) each use is wholly located on separate floors;
 - (b) they are serviced from the street by separate foyers, lift access and circulation; and

- (c) it can be demonstrated, through an approved Plan of Management, that the visitor accommodation will not reduce the quiet enjoyment of uses by implementing appropriate measures. Where no approved Plan of Management for the visitor accommodation exists, then the introduction of residential uses into that building, either through additional floor area or change of use, is not permitted unless it is for the entire building.
- (4) Developments of more than 20 serviced apartments must provide the following mix of apartments:
 - (a) studio and 1 bed apartments: 60% maximum; and
 - (b) 2 or more bedroom apartments: 40% minimum.

Note: Where serviced apartments are to be converted to residential flats, the unit mix is different. Refer to Provision 4.2.3.12 (1) of this DCP.
- (5) The required mix of apartments may be varied where the applicant can demonstrate the requirement is inappropriate in the circumstances.
- (6) Provide a wash tub, washing machine and clothes dryer or clothesline within each apartment.
- (7) Provide a garbage room or garbage receptacle storage area with space for recyclables.
- (8) Each bedroom is not to accommodate more than two adults and one child.
- (9) A sign advising the maximum residential capacity of each bedroom is to be displayed on each bedroom door or other obvious locations within the apartment.
- (10) A Plan of Management must be submitted with every application for a serviced apartment describing how on-going operations are to be managed with regard to:
 - (a) ensuring maximum occupancy requirements are not exceeded;
 - (b) minimising the impact of noise from the premises to adjoining properties;
 - (c) waste minimisation, storage and collection procedures;
 - (d) staffing arrangements including the number of staff to be employed;
 - (e) any proposed shuttle service providing a pick up and drop off service to guests, including details of the timetable and set down arrangements;
 - (f) the maintenance and cleanliness of the premises;
 - (g) ensuring the on-going workability of emergency systems including lighting and smoke detectors, sprinkler systems, and air conditioning;
 - (h) ensuring staff are trained in relation to the operation of the approved Emergency Management and Evacuation Plan;
 - (i) ensuring the placement and composition of furnishing and fittings achieve the appropriate fire safety requirements;
 - (j) ensuring premises are regularly checked to ensure fire safety including that all required exits and egress paths are clear and free of locks and obstructions; and
 - (k) on-site security.

4.4.9 Small scale and other cultural activities

This section guides the provision of small-scale and other cultural activities in the city, to provide social and economic benefits for residents, workers and visitors and meet the community's expectations for a vibrant, diverse and evolving cultural life.

These activities involve making or presenting creative content such as film, music, art, craft or performance. They may be irregular or one-off events held in adapted spaces on a small-scale or regular activities in permanent venues, theatres, galleries or entertainment spaces.

Advice on fire safety upgrades

The *National Construction Code* (NCC) and NSW land use planning definitions do not address the potential range and unique characteristics of creative uses. Despite their size and sometimes temporary nature, these uses can be classified as entertainment or Class 9b of the NCC, which is characterised by much larger uses with greater impacts. Imposing the requirements for a Class 9b space to small and creative spaces can result in onerous fire and safety provisions.

Council has prepared technical guidelines to outline alternative solutions for fire safety and building compliance standards for cultural activity taking place in existing building spaces less than 500 square metres. These include a checklist of specifications which address floor space, occupancy, travel distances between exits, exit capacities, stage size, sanitary provision and nature of stairways and ramps.

This checklist may assist operators in choosing the right types of buildings and ensure that minimal, if any works need to be done to make them suitable, while maintaining compliance with the fire safety and building requirements under the NCC and the *Environmental Planning and Assessment Act 1979*. Certifiers will be responsible for deciding whether a proposal complies with the National Construction Code.

In determining a development application for small scale cultural activities Council will take into account any measures implemented in accordance with the *Technical Guidelines for Small Scale Cultural Activities in Spaces Less than 500 Square Metres* when considering sections 62 and 64 of the *Environmental Planning and Assessment Regulation 2021*.

Note: Notwithstanding the above, these guidelines do not override the Council's statutory obligations to ensure fire protection and structural capacity in proposals for changes of use or alterations of buildings under sections 62 and 64 of the *Environmental Planning and Assessment Regulation 2021*. The Technical Guidelines will be considered in the assessment of applications, however there may be situations where they will not be applicable due to unacceptable levels of fire risk.

Definitions

Small scale cultural activities include:

- (a) live entertainment, (being an event at which one or more persons are engaged to play or perform live or pre-recorded music, or a performance at which at least some of the performers are present in person), including the presentation or rehearsal of music, film, theatre, spoken word, comedy or dance, or
- (b) the production or an event in association with an exhibition of art, craft, design, media, image or immersive technology, or
- (c) teaching or discussion related to (a) or (b).

Amplified sound means sound which is generated, provided or aided through the use of any electrically powered device. This includes but is not limited to the following: use of a public address system, bullhorn/megaphone, loudspeaker or any speaker or subwoofer, power amplifier, stereo system. It includes both background music and foreground music.

Background music means pre-recorded music played through no more than two electrically amplified speakers, which is intended as an accompaniment rather than the main focus of an audience/event. Background music is played at a soft, low volume/low amplification level which does not require persons to elevate their voices to hold conversations. It is not audible within any separate premises and does not create nuisance.

Foreground music or sound means any music or sound, amplified or not, which is directly played as a primary source of entertainment, or focus of entertainment to people who are attending an activity.

Objectives

- (a) To provide guidance for the provision of small scale cultural and performance activities in existing and new buildings where amenity impacts are managed according to scale and risk.
- (b) Manage impacts of small scale cultural and performance activities on the amenity of the surrounding area.

Provisions

4.4.9.1 Guidance for low impact small scale cultural activities

The following guidance is provided to assist operators in understanding the suitability of building spaces for small-scale cultural and performance events. Criteria is included to demonstrate the thresholds of activity which the Council considers to result in minimal impacts.

If an operator can demonstrate in a development application that the following criteria are satisfied, the Council's assessment may focus on the site specific impacts of the proposal on neighbourhood amenity, such as sound generation.

- (1) Development applications for small scale cultural activities which meet the following criteria will be considered to be low impact. The activity:
 - (a) Accommodates less than 120 patrons;
 - (b) Occurs in a building with an operative development consent or other legal entitlement to operate as a retail, office, industrial premises or community facility;
 - (c) Occurs in a building with a current annual fire safety statement which enables occupation of the building for its current approved use;
 - (d) Complies with the alternative technical solutions to the National Construction Code;
 - (e) Occurs no more than 52 days a year, no more than 8 days a month, or 4 consecutive days a month;
 - (f) Is no longer than 4 hours in duration, excluding set up and pack down;
 - (g) Finishes no later than 10pm if in a B2 Local Centre or B4 Mixed Use zone;
 - (h) Finishes no later than midnight if in a B3 Commercial Core, B5 Business Development, B6 Enterprise Corridor, B7 Business Park, B8 Metropolitan Centre and IN1 General Industrial zone;
 - (i) Does not include amplified music, but may include background music and the use of a microphone for the duration of the event;
 - (j) Includes the supply of alcohol subject to a liquor license or caterers authorisation;
 - (k) Provides adequate access to sanitary facilities. Where access is provided off site, this does not impact the amenity of separate noise sensitive locations; and

- (l) Is subject to a Plan of Management which manages potential impacts on adjoining and surrounding land uses in accordance with the section 4.4.9.2 below.

4.4.9.2 Guidance for other cultural activities

The following guidance is provided for other cultural activities which do not meet the low impact criteria in 4.4.9.1 above.

Development applications for these cultural activities will be assessed taking into account a number of issues, which may include but are not limited to the:

- (a) location and context of the premises where the cultural activity will be held, including the provision of facilities for the event and proximity to residential and other sensitive land uses;
- (b) specific nature of the cultural event, its patronage, programming and entertainment, liquor licensing and duration;
- (c) likely impact on the amenity of surrounding sensitive land uses and the ability to manage these impacts. This may include, but not be limited to, the impact of amplified sound and sound from set up and pack down of the event;
- (d) likely impacts arising from the opening and closing time of the event and patron arrival and dispersal on local amenity, local businesses, night time vibrancy and safety;
- (e) measures to be used for ensuring adequate safety, security, waste management and crime prevention both on the site of the premises and in the public domain immediately adjacent to, and generally surrounding, the premises;
- (f) accessibility and frequency of public transport during the operation of the event to ensure the efficient and safe movement of people and minimise impacts on local amenity; and
- (g) submission of a Plan of Management that includes measures for the good management of the event, particularly in relation to managing potential impacts on adjoining and surrounding land uses and premises, as well as the public domain.

4.4.9.3 Plans of Management for cultural activities

Plans of Management are to include information about the operational and contextual aspects of a premises which hosts a cultural activity and the actions that will be taken to ensure that premises will be responsibly managed, for example, crowd control procedures, noise minimisation and waste management.

This will ensure that operators have considered and addressed any potential impacts that may arise from their event. It is the responsibility of the operator to facilitate a well-managed premises and display sensitivity about the impact of the premises on the liveability of neighbourhoods.

- (1) Where the Council is of the opinion that proposals for cultural activities have the potential to impact adversely on amenity and neighbourhood safety, applicants may be required to prepare and submit with their application a Plan of Management to ensure that it operates with minimal impact on adjoining owners and occupiers. A Plan of Management should be accompanied by a signed declaration from the operator that they have read and understood the Plan of Management.

The Plan of Management should include details of:

- (a) the name and contact details of the operator
- (b) the times and days during which events are to occur
- (c) an emergency contact and address details for medical service, hospital, and police, in addition to emergency call triple zero "000"

- (d) the music, visual, performance, creative and cultural events that may be staged at the premises
- (e) the primary use of the premises as well as any secondary/ancillary uses. This shall include a floor and/or site plan that indicates the use of all areas within the building or site
- (f) the capacity of the space to host the small scale cultural activities including the location and dimensions the space, any stage and audience (standing or seating area) and equipment to present the cultural activity
- (g) the proposed operating hours for each day of the week for the small scale cultural activities at the premises
- (h) the maximum capacity of the premises and the maximum number of patrons that will be standing and/or sitting at the event any one time. The maximum capacity of specific areas of the premises should be updated to reflect fire safety requirement upon the issue of a construction certificate and the final Plan of Management submitted to the Council prior to the issue of an occupation certificate
- (i) the proximity of external doors, windows and other openings to residential and other sensitive land uses shown on a floor plan. The plan should also indicate the proposed layout of all areas of the premises and the location of waste storage areas, air conditioning, exhaust fan systems and security alarms
- (j) the staffing arrangements with the assigned duties of personnel for the event, including the number of staff to employed per patrons, security and the location or 24 hour contact details of any on-site manager, off- site manager or who has overall responsibility for the operation, administration, cleanliness, maintenance and fire safety of the premises
- (k) adequate provision for sanitary facilities at the small-scale or other cultural event
- (l) any liquor licenses to be utilised at the premises
- (m) any food service delivered through a catering authorisation, or an approved development consent for the preparation and service of food and drink on the premises
- (n) compliance for any food and/or drink service with the requirements of the Food Act 2003 and Food Standards Code
- (o) a policy that describes the measures to minimise harm associated with alcohol consumption to ensure the responsible service of alcohol (if it is served)
- (p) all likely sound and vibration sources associated with the operation of the premises. This may include such sources as:
 - live performance and amplified sound; including the location of speakers and PA system and the wattage of amplification and any noise limiting devices to be installed;
 - background music;
 - external areas such as courtyards, rooftops, balconies etc;
 - patrons leaving and entering the premises;
 - waste disposal, sorting and collection of bottles; and
 - ancillary equipment supporting the event e.g. generators, refrigerated shipping containers, air compressors or lighting stacks.

- (q) all sound and vibration management and attenuation measures related to the use and operation of the premises
- (r) signage that is to be erected providing advice to patrons to maintain quiet and order when leaving and entering the premises
- (s) signage detailing the nearest transport options for patrons leaving the event
- (t) measures that will be taken to ensure that any queuing is controlled in a manner that will not adversely impact the amenity of the neighbourhood and that the footpath will not be unreasonably impeded
- (u) a waste management plan that outlines the procedures for minimising and managing waste that is generated by the premises. This should address such matters as disposal of bottles, how and when waste will be removed, details of waste management facilities, waste collection and storage areas
- (v) procedures for notifying neighbours about the nights when the event(s) will be held, including signage and/or letterbox drops advising of:
 - the event name, including a description of the nature of the event, commencement, duration; and
 - completion date the name and telephone number for contacting the person responsible for the event at all hours during which the premises is operating.
- (w) all actions that will be taken to respond to complaints made about the operation of the premises
- (x) procedures for addressing complaints and a complaints register for identifying issues that have caused disturbance to the neighbourhood.