

Part 1

STATUTORY INFORMATION

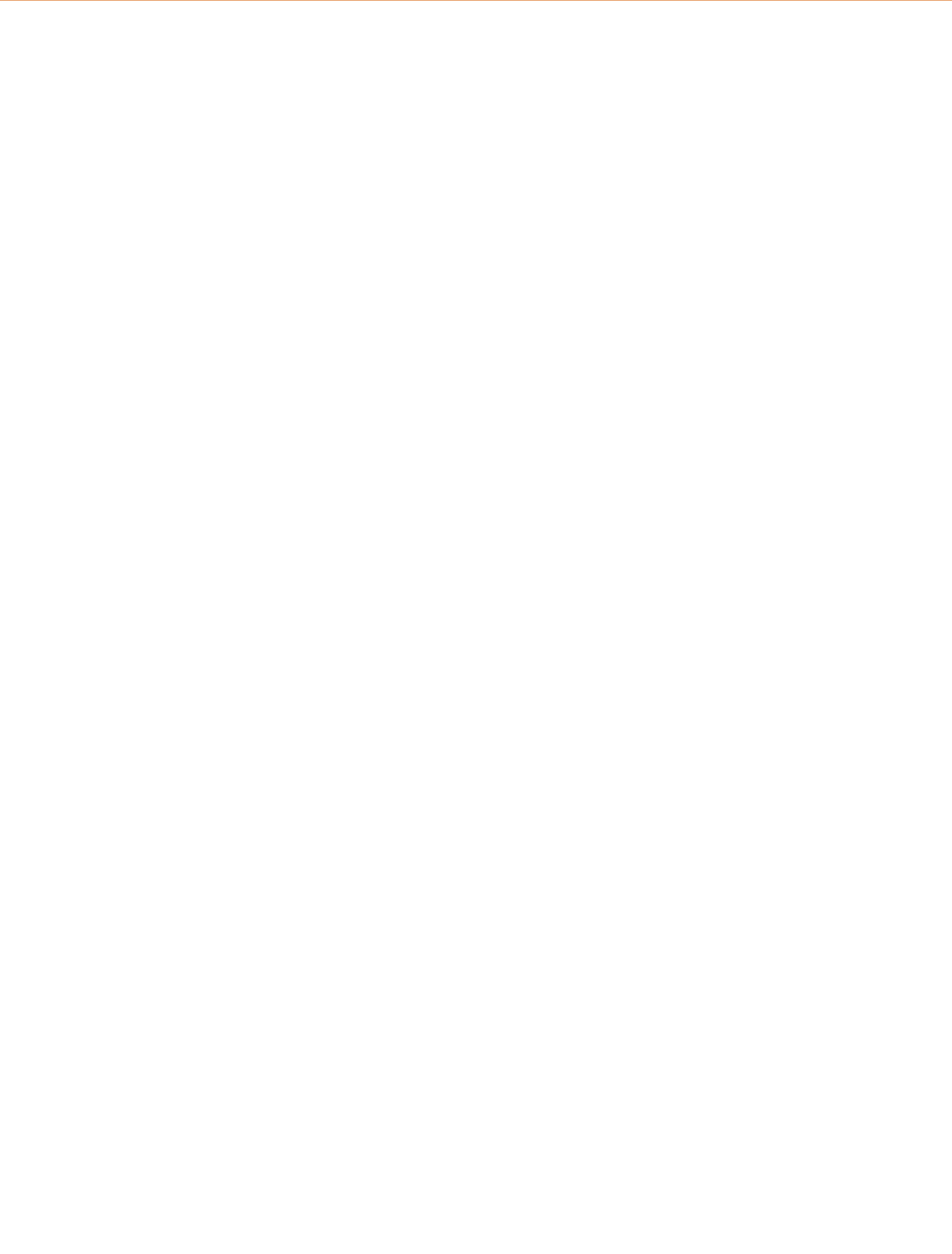






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Part 1 Statutory Information

1.1 About this Development Control Plan

1.1.1 What is a Development Control Plan (DCP)

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

1.1.2 Name of this DCP

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

1.1.3 Land to which this DCP applies

This DCP applies to the whole of the Inner West Local Government Area for the extent of land shown on Figure 1: *Extent of land where this DCP applies*.

1.1.4 Relationship to other plans

This DCP is to be read in conjunction with Inner West Local Environmental Plan 2022. In the event of an inconsistency between the provisions of the two documents, the provisions of Inner West LEP 2022 shall prevail to the extent of the inconsistency.

1.1.5 Savings and transitional provisions

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

1.1.6 Legislative background

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

On commencement of this DCP, all DCPs which previously applied within the former Marrickville LGA will cease to have effect. This DCP is the only DCP that applies to all land shown on Figure 1: *Extent of land where this DCP applies*.



Figure 1: Extent of land

1.1.7 What does this DCP attempt to do?

The purpose of this DCP is to supplement the provisions of Inner West LEP 2022 and provide more detailed provisions to guide development.

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

Section 4.15 of the EP&A Act contains other matters that must be considered in assessing a development application.

1.1.8 Non legal parts of this DCP

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



1.1.8.1 Development application guidelines

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

1.1.8.2 Notes

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

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

1.1.8.3 Appendices

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

1.1.9 General aims and objectives

This DCP aims to:

1. Review and amend the contents of Council's existing DCPs so that they reflect contemporary planning practices;
2. Incorporate the amended/updated provisions of the existing DCPs and codes together with new planning provisions on contemporary and other planning issues into a single DCP; and
3. Build upon Inner West LEP 2022 by providing detailed objectives and controls for development.

The objectives of this DCP are:

- O1** To provide detailed design objectives and controls which encourage innovative design that positively responds to the character and context of the locality and which encourage high quality urban design outcomes.
- O2** To ensure future developments consider the needs of all people who live, work and visit the Marrickville LGA, including people with a disability.
- O3** To maintain and enhance the environmental and cultural heritage of the Marrickville LGA.
- O4** To enhance the quality of life and the wellbeing of the local community.
- O5** To support the integration of transport and land use, including increased residential and employment densities in appropriate locations near public transport, while protecting residential amenity;
- O6** To promote sustainable transport, i.e. reduced car use and increased use of public transport, walking and cycling;
- O7** To ensure that development considers the principles of ecologically sustainable development, in particular energy, water and stormwater efficiency, solar access, waste reduction and local biodiversity.
- O8** To ensure that development positively responds to the qualities of the subject site and is appropriate for the site and its context.

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- O9** To minimise negative impacts of development on the amenity of surrounding neighbourhood.
- O10** To provide guidelines for specific development types and development sites to ensure appropriate high quality development within the Marrickville LGA.

1.1.10 Structure of this DCP

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

Table 1: Structure of the DCP

| Part of the DCP | Main contents | Application |
|-----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Development Application Guidelines | This is a non legal part of the DCP that introduces the requirements for lodging a development application, types of applications, information to be submitted with a development application and the development application assessment process. | This part provides information on all types of development applications. |
| Part 1 – Statutory Information | This part contains the general aims and objectives of the DCP, legal information concerning various aspects of the DCP and compliance with the controls and objectives; and the consultation and notification process for applications made under the Environmental Planning and Assessment Act. | This part applies to all types of development in the Marrickville LGA that require Council's consent to carry out that development. |
| Part 2 – Generic Provisions | This part contains objectives and controls for generic issues such as advertising, equity of access and mobility, solar access, parking, waste management or fencing which may be applicable to more than one type of development. This part is divided into four sub-categories namely environmental/general design principles, environmental amenity, environmental management and environmental site analysis. | This part provides objectives and controls for various aspects of a development activity. For example, a proponent for a dwelling house development must refer to this part to find relevant controls for landscaping, private open space, fencing, privacy, solar access or parking, in addition to specific controls applying to dwelling house development provided in Part 4. |
| Part 3 – Subdivision, Amalgamation and Movement Networks | This part contains objectives and controls applying to land subdivision. | This part must be referred to if a development activity involves any form of subdivision. |
| Part 4 – Residential Development | This part contains specific objectives and controls applying to residential development. It is divided into three parts: Low Density Residential Development; Multi-Dwelling Housing and Residential Flat Buildings; and Boarding Houses. Other forms of residential development like backpackers' accommodation will be added to this Part at a later date. | This part must be referred to for any residential development. |
| Part 5 – Commercial and Mixed Use Development | This part contains specific provisions applying to mixed use development, office premises, business premises, retail premises and includes provisions relating to commercial/light industrial/residential interface; and design guidelines. | This part applies to commercial developments including developments that contain a commercial component. |
| Part 6 – Industrial Development | This part includes specific objectives and controls relating to industrial development and includes provisions relating to industrial/residential interface; multi unit industrial development; controls for specific land uses; creative industries; residential uses in specified employment areas; and period | This part applies to industrial developments, creative industries or live/work buildings in industrial zones. |



| Part of the DCP | Main contents | Application |
|-------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | industrial buildings. | |
| Part 7 – Miscellaneous Development | This part contains objectives and controls for certain miscellaneous development types not covered elsewhere in the DCP. It is currently divided into two parts: Child Care Centres; and Sex Industry and Adult Business Premises. Other forms of miscellaneous developments such as Telecommunication Facilities will be added to this Part at a later date. | This part applies to those various development types listed. |
| Part 8 – Heritage | This part provides controls and objectives relating to heritage items and heritage conservation areas. | This part applies to development to a heritage item or in the vicinity of a heritage item or in a heritage conservation area or in the vicinity of a heritage conservation area. |
| Part 9 – Strategic Context | This part provides objectives and controls, in addition to preceding parts of this DCP, which are specific to a particular area and guide the implementation of the desired future character for that area. | This part must be referred to for any development activity to understand the desired future character of the area or the site and whether there are any specific objectives or controls affecting a proposed development. |
| Definitions | This part provides definitions of certain terms used in this DCP. | |

1.1.11 Compliance with the controls and objectives

Before granting consent for development Council must consider:

- All applicable requirements of Inner West LEP 2022;
- The objectives of this DCP;
- Compliance with the generic provisions (objectives and controls) contained in Part 2 of this DCP;
- Compliance with the relevant objectives and controls in Parts 3 to 8 of this DCP; and
- Compliance with any precinct or site specific controls in Part 9 of this DCP.

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

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

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

1.1.12 Order of priority for applying controls

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

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

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

1.1.13 Variation to development controls in the DCP

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

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

1. Identify the development control subject of the variation request;
2. Identify the general and/or specific objectives of that control;
3. Justify why the specific provisions of the policy do not make appropriate provisions with regard to the subject application; and
4. Demonstrate why compliance with the provisions of this DCP is unreasonable or unnecessary in the particular circumstances of the case.

The fact that existing development may not comply with one or more of the development controls does not necessarily mean that the development control is unreasonable or unnecessary when applied to future development.

Council may use its discretion to consider a variation to the development controls contained in this DCP, particularly for proposed alterations and additions to an existing building or structure, where Council believes the proposed development is consistent with the objectives of the zone as contained in Inner West LEP 2022 and the relevant objectives of this DCP.

1.2 The Consultation and Notification Process

For information regarding notification of applications please refer to Council's Community Engagement Framework

<https://www.innerwest.nsw.gov.au/ArticleDocuments/946/Community%20Engagement%20Framework.pdf.aspx>