

Proposed Mosman Development Control Plan (DCP) Amendments

Publicly exhibited: 19 April – 17 May 2018

Changes – All Mosman Development Control Plans (DCPs)

Part	Change/s	Reason/s
1. Introduction		
1.1 Name of this Plan and when this Plan came into force	Update table of amendments with Date amendments adopted by Council and Date amendments came into effect (following public exhibition and adoption by Council)	To keep track of and to have transparency of changes made to the DCP.
1.7 Relationship of this Plan to other plans and policies	Change the sub-heading 'Codes SEPP' to 'Exempt and Complying Development'; update content within this part to refer to exempt and complying development as development which may be allowed on certain land in Mosman under a SEPP or the LEP; add reference SEPP (Infrastructure) 2007; and update the website reference.	Reflects expansion of the State Government's exempt and complying development program i.e. such development may now be prescribed by a range of SEPPs or the LEP.
	Delete reference to 'Section 94A development contributions plan' and replace with 'contributions plan'; and add (at the end of the paragraph) that the contributions plan was made pursuant to the <i>Environmental Planning and Assessment Act 1979</i> . For the BCDCP and OSIDCP only – Delete reference to a Section 94 Plan applying in Mosman.	Reflects change made to the <i>Environmental Planning and Assessment Act 1979</i> (the Act) on 1 March 2018 which introduced a new decimal numbering system. Reference to Mosman's Section 94 Plan is redundant.
1.9 How Council assesses proposed development	<i>Preparing and lodging a development application:</i> Within the first paragraph, delete 'in the LEP or SEPP (Exempt and Complying development Codes) 2008'.	Reflects expansion of the State Government's exempt and complying development program i.e. such development may now be prescribed by a range of SEPPs or the LEP. The list of policies where exempt and complying development is prescribed has been omitted as this is subject to change.
	<i>Preparing and lodging a development application:</i> Within the second paragraph, delete 'in Part 2 of this Plan' and replace with 'on the development application form'	Refer to comments below re Part 2.3.
	<i>Assessing the application:</i> Delete '79C' and replace with '4.15'; and delete 'section 94A contributions plan' and replace with 'contributions plan'.	Reflects change made to the Act which introduced a new decimal numbering system.
	<i>Determining the application:</i> Delete 'Mosman Development Assessment Panel (MDAP)' and replace with 'Mosman Local Planning Panel (MLPP)'; delete 'joint regional planning panel' and replace with 'Sydney North planning panel'; and delete reference to the Major Development SEPP.	Reflects change made to the Act which mandate local planning panels within Sydney and provide for the constitution of Sydney district planning panels. From 1 March 2018, the Mosman Local Planning Panel (MLPP) replaced the Mosman Development Assessment Panel (MDAP). The Major Development SEPP has been repealed.
	<i>Modifying the application:</i> Delete '96' and replace with '4.55'.	Reflects change made to the Act which introduced a new decimal numbering system.

Part	Change/s	Reason/s
2. Development Application Requirements		
2.1 Steps to Preparing a Development Application	<i>Step 1 – Review relevant plans and policies:</i> Within the fourth paragraph, delete ‘in SEPP (Exempt and Complying Development Codes) 2008 or the LEP’.	Reflects expansion of the State Government’s exempt and complying development program i.e. such development may now be prescribed by a range of SEPPs or the LEP.
	<i>Step 5 – Prepare plans and documents:</i> Delete ‘Part 2.3 of this Plan’ and replace with ‘the development application form on Council’s website’.	Refer to comments below re Part 2.3.
	<i>Step 6 – Lodge your development application with Council</i> Within the second paragraph, delete: ‘Any project with an estimated cost greater than \$5 million requires submission of a Quantity Surveyor’s certificate with the development application’.	Refer to comments below re Part 2.3.
Part 2.3 What to submit with your development application	Within the first paragraph, delete ‘The following checklist is a guide to...’ and replace with ‘The development application form contains a checklist of...’. After the first paragraph, add a new second paragraph: ‘Similarly, the application forms to modify a consent and review a determination detail what is required to be submitted in those instances’. Delete all content in this Part after the first and second paragraphs, i.e. including the table of ‘what to submit’ requirements.	‘What to submit’ requirements in the DCP are out of date. Application forms for a development application, modification of consent and review of determination each contain a checklist of plans, documentation and other information that is required to be submitted, and these forms can be more easily updated as the need arises rather than updating the DCPs. Councils have been advised that the NSW government intends to introduce mandatory ‘what to submit’ requirements in the near future.
3. Notification of Applications		
3.1 Applications for which notification is not required	Delete reference to ‘Section 96(1)’ and ‘Section 96(1A)’ and replace with ‘section 4.55(1)’ and ‘section 4.55(1A)’ respectively.	Reflects change made to the Act which introduced a new decimal numbering system.
3.3 Notification of different types of development	<i>Local development:</i> Delete ‘Development applications for the ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation’ and replace with ‘Development applications that involve the clearing of vegetation (as defined under SEPP (Vegetation in Non-Rural Areas) 2017’’. Add reference to the Preservation of Trees or Vegetation Part of the DCP for more information.	SEPP (Vegetation in Non-Rural Areas) 2017 was introduced to regulate the clearing of vegetation throughout NSW, replacing clause 5.9 Preservation of Trees or Vegetation in council LEPs.
	<i>Other development:</i> Within the first paragraph, delete ‘and in the case of State significant development in State Environmental Planning Policy (Major Development) 2005’ and replace with ‘or other State policy’.	The Major Development SEPP has been repealed.
3.5 Section 96 and 96AA applications	Change heading to ‘Modification applications’; and replace any reference to ‘section 96’ with ‘section 4.55’ (e.g. section 96(1A) would become section 4.55(1A)), with the exception of ‘section 96(AA)’ which is to be changed to ‘section 4.56’.	Reflects change made to the Act which introduced a new decimal numbering system.

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3.6 Section 82A and 96AB Review applications	Change heading to 'Review applications'; replace 'section 82A' in the first paragraph with 'sections 8.2 to 8.5'; delete 'section 82A' in the second paragraph; add 'or modification application' to the second sentence after 'development application'; delete the third paragraph.	Reflects change made to the Act which introduced a new decimal numbering system.
3.7 Post determination notification	Replace 'section 101' with 'section 4.59'	Reflects change made to the Act which introduced a new decimal numbering system.
Other Parts		
Landscaping – 4.4 (RDCP) 4.9 (OSIDCP)	P2 (RDCP) and P1 (OSIDCP). Delete 'on Council's Urban Forest Management Register' and replace with 'in Council's Urban Forest Management Policy'	The Urban Forest Management Policy was adopted by Council on 1 August 2017. It provides a consistent and transparent framework for managing trees within Mosman.
	P13 (RDCP) and P10 (OSIDCP): Delete 'noxious and invasive plants to be removed' and replace with 'plants that are a biosecurity risk under the <i>Biosecurity Act 2015</i> '.	Reflects a change in terminology and legislation. The <i>Noxious Weeds Act 1993</i> has been repealed and replaced by the <i>Biosecurity Act 2015</i> and <i>Biosecurity Regulation 2017</i> .
Preservation of trees or vegetation – 4.5 (RDCP) 6.10 (BCDCP) 4.10 (OSIDCP)	Introduction: Delete reference to clause 5.9 of the LEP and replace with SEPP (Vegetation in Non-Rural Areas) 2017; add the definition of 'clear' vegetation from the SEPP.	SEPP (Vegetation in Non-Rural Areas) 2017 was introduced to regulate the clearing of vegetation throughout NSW, replacing clause 5.9 Preservation of Trees or Vegetation in council LEPs, although council DCPs continue to prescribe the species for which a permit is required to be obtained for tree removal, pruning or the like.
	P1 and P10: Delete 'clause 5.9 of the LEP' and replace with 'Part 3 of the Vegetation SEPP'	As above.
	P2 and P3: Delete 'carry out any of the actions listed in clause 5.9 of the LEP' and replace with 'clear vegetation'	As above.
	P5, P6 and P7: Delete 'under clause 5.9 of the LEP' and replace with 'to clear vegetation'	As above.
	Add new P11: For Council to be satisfied that a tree or other vegetation is a risk to human life or property, there must be visual and written evidence recorded by a qualified professional arborist which determines an immediate risk and justifies the action taken.	This control is currently within the Table of vegetation species for which a permit or consent is / is not required (clause (2)(c) within the Table). It is included in the list of planning controls where it is more appropriate to be located.
	<i>Table – Trees and vegetation:</i> Delete: <ul style="list-style-type: none"> • All references to 'clause 5.9 of the LEP' and replace with 'Part 3 of the Vegetation SEPP'. • Within (1)(a)(iii), 'on Council's Urban Forest Management Register' and replace with 'in Council's Urban Forest Management Policy' • (2)(b), (c), (d) and (g) entirely, i.e. matters for which a permit or consent from Council is not required for clearing: <ul style="list-style-type: none"> (b) Trees or other vegetation or matters identified in clause 5.9 of the LEP to which the clause does not apply. (c) Further to clause 5.9(6) of the LEP, for Council to be satisfied that a tree or other vegetation is a risk to human life or property, there must be visual and 	As above. (1)(a)(iii): The Urban Forest Management Policy was adopted by Council on 1 August 2017. It provides a consistent and transparent framework for managing trees within Mosman. (2)(b): deleted as this is redundant. (2)(c): relocated to the list of planning controls in Part 4.5, as new P11. (2)(d): deleted as the <i>Noxious Weeds Act 1993</i> has been repealed. See new (2)(b). (2)(g): similarly replaced by new (2)(b) re biosecurity risk.

Part	Change/s	Reason/s
	<p>written evidence recorded by a qualified professional arborist which determines an immediate risk and justifies the action taken.</p> <p>(d) Further to clause 5.9(8)(e) of the LEP, the clause does not apply to or in respect of weeds declared noxious in the control area of Mosman Municipal Council under the <i>Noxious Weeds Act 1993</i>.</p> <p>(g) A tree is harbouring fruit fly as confirmed and recorded in writing by a suitably qualified professional.</p> <p><i>Table – Trees and vegetation:</i> Add new:</p> <ul style="list-style-type: none"> (2)(a): Additional exempt species in alphabetical order: Giant Bird of Paradise, <i>Strelitzia nicolai</i>; and Norfolk Island Hibiscus, <i>Lagunaria patersonii</i> (2)(b), (c), (d) as follows to the list of matters for which a permit or consent from Council is not required for clearing: <ul style="list-style-type: none"> (b) Plants or weeds that are declared to be a biosecurity risk by Council or the NSW Department of Primary Industries, including those legislated as notifiable or a prohibited matter under the <i>Biosecurity Act 2015</i>. (c) Trees and vegetation that may be cleared under the 10/50 Vegetation Clearing Scheme, pursuant to the <i>Rural Fires Act 1997</i>. (d) Pruning of trees to provide adequate clearance for power lines carried out by Ausgrid contractors pursuant to relevant legislation. 	<p>(2)(a): two additional species are added to the list of exempt species (i.e. for which a permit or consent from Council is not required for removal) as these are a nuisance species. Addition of the Norfolk Island Hibiscus to the list of exempt species is consistent with the Council report of 6 June 2017 (EP/28) regarding the Council's tree policy. The Giant Bird of Paradise is a self-propagating species within Mosman, often found along roadsides and in other inappropriate locations, and is added to the list of exempt species for this reason.</p> <p>New 2(b): refers to plants or weeds that are a biosecurity risk or declared under the <i>Biosecurity Act 2015</i>. (Legislation replaces the <i>Noxious Weeds Act 1993</i>).</p> <p>New (2)(c): refers to trees and vegetation that may be cleared without consent within bushfire prone areas as declared under the 10/50 Vegetation Clearing Scheme. Around 6% of residential lots in Mosman are affected by this scheme.</p> <p>New (2)(d): refers to trees that may be cleared by Ausgrid contractors to provide adequate clearance for power lines. The relevant legislation is SEPP (Infrastructure) 2007 and the <i>Electricity Supply (Safety and Network Management) Regulation 2014</i>.</p>
Heritage conservation – 5.6 (RDCP) 6.1 (BCDCP) 4.3 (OSIDCP)	<p>Within Introduction (all) –</p> <p>At the end of the paragraph referencing heritage conservation area rankings, add “The ranking of buildings within all Mosman heritage conservation areas was reviewed in 2017-18. Revised heritage conservation area rankings maps were adopted by Council in April 2018. These can be viewed on Council’s website.” And delete “Refer to the Mosman Heritage Review 1996 / relevant heritage studies for details”.</p> <p>In the RDCP, within the paragraph referring to statements of heritage significance, add reference to “the Mosman Heritage Review 1996 or other heritage study”.</p> <p>Within P1 (OSIDCP) and P23 (RDCP) –</p> <p>Edit planning control to include reference to ‘the Mosman Heritage Review 1996 or relevant heritage study’ after reference to the statement of significance of the conservation area; and add reference to the Mosman Council website</p>	<p>A new study of heritage conservation area rankings has been undertaken to update them consistent with current best practice and how the building currently presents in the streetscape. The new heritage rankings are mapped for each conservation area and available on Council’s website.</p>

Part	Change/s	Reason/s
	after the reference to the building ranking.	
Medium Density Housing – 5.5 (RDCP) 6.4 Residential development in Business Centres (BCDCP)	Introduction: Within the name of the SEPP, delete 'Flat' and replace with 'Apartment'; delete reference to the development to which the SEPP applies and the definition of 'residential flat building'; and delete 'Residential Flat Design Code (Model Code) (a publication of the NSW Department of Planning, September 2002) and replace with 'Apartment Design Guide'.	SEPP 65–Design Quality of Residential Apartment Development was amended to support further improvements in apartment design, and includes a change in policy name, terminology, and definitions; revised principles; and a new supporting guide.
	At the beginning of the Part, in the sentence where it is referenced what types of development the Part applies to, add the words "medium density housing, including".	The Standard Instrument (Local Environmental Plan) Amendment (Low Rise Medium Density Housing) Order 2017 comes into effect on 6 July 2018. It mandates new medium density housing land use terms for inclusion as permissible uses in council local environmental plans. This change to the DCPs to add "medium density housing including" would encompass a range of medium density housing types.
	P1: Amend the principles to match those of the revised SEPP 65. i.e. (a) context and neighbourhood character; (b) built form and scale; (c) density; (d) sustainability; (e) landscape; (f) amenity; (g) safety; (h) housing diversity and social interactions; and (i) aesthetics.	As above.
	RDCP only: P4, and Note after P17. Delete 'Model Code' and replace with 'Apartment Design Guide'	As above.
Transport, access and parking – 5.10 (RDCP) 6.11 (BCDCP) 4.11 (OSIDCP)	Introduction: Delete 'child care centre' and replace with 'centre-based child care facility'; and delete reference to where the Premises Standards can be obtained from.	Reflects a change in terminology for child care centres under SEPP (Educational Establishments and Child Care Facilities) 2017 and Mosman LEP 2012. The website is omitted as it is invalid.
	Objectives and planning controls: Update reference to current Mosman Bicycle Strategy 2014-2019, and 'the current' AS/NZS 2890 (set): Parking facilities.	Reflects updated strategy and Australian Standards
	P15 (RDCP); P17 (BCDCP); P12 (OSIDCP) - Bicycle parking facilities for commercial/retail – add 'whichever is greater' after the rate	To clarify how Council assesses proposed development. The rate of bicycle parking does not change (i.e. 1 space per 200sqm gross floor area or 3-5% number of staff/visitors).
	Table of car parking requirements: Delete 'child care centre' and replace with 'centre-based child care facility'	As above.
Accessible buildings / adaptable housing – 5.11 (RDCP) 6.3 (BCDCP) 4.4 (OSIDCP)	Introduction: Delete reference to where the Premises Standards can be obtained from; and delete 'child care centres' and replace with 'centre-based child care facilities'	As above.

Part	Change/s	Reason/s
Land affected by hazards – 6.6 (RDCP) 7.5 (BCDCP) 5.2 (OSIDCP)	<i>Bushfire prone land:</i> Delete 'section 79BA' and replace with 'section 4.14'.	Reflects change made to the Act which introduced a new decimal numbering system.
Heritage Townscapes / Business Centres – How to use this part – 7.3 (RDCP) 4.2 (BCDCP)	Amend paragraphs which relate to heritage conservation area townscapes/rankings to – <ul style="list-style-type: none"> • Reference the need to consider and be guided by the statement of heritage significance and ranking of the building within the conservation area, • Reference updated conservation area rankings and their meaning. • Amend the rankings description within the table, and add a new row referencing heritage items. • Clarify that the conservation area rankings map is available to be viewed on Council's website (i.e. delete that map available at Council). 	A new study of heritage conservation area rankings has been undertaken to update them consistent with current best practice and how the building currently presents in the streetscape. The new heritage rankings are mapped for each conservation area and are available on Council's website.
Heritage Townscapes / Business Centres – 7.4 The Townscapes (RDCP) 4.3 The Business Centres (BCDCP)	Delete planning control referring to conservation area rankings – e.g. <ul style="list-style-type: none"> • Within RDCP townscapes: Delete "Comply with the Mosman Heritage Review 'conservation area ranking' applicable to the building, set out in Part 7.3 of this Plan"; • Within the RDCP, for the Glover and Nathan's Estates Conservation Area townscape: Delete "Comply with the 'conservation area ranking' applicable to the building in Belmont and Cabramatta Roads, Mosman: Conservation Area Study, December 2004, prepared by City Plan Heritage (extract on following page)"; also delete the table on the following page and delete reference to where the map can be viewed. • Within BCDCP: Delete "Comply with the Mosman Heritage Review 'conservation area ranking' applicable to the building, set out in Part 4.2 of this Plan"; <p>Replace all above with: "The ranking of the building within the conservation area must be considered and guide any works." Add this to the Lower Boyle Street Conservation Area townscape.</p>	As above
Appendix 1 Dictionary	Definition of Multiple dwellings: add the words "medium density housing including" after "which means" (RDCP and BCDCP only. The term does not appear in the OSIDCP)	The Standard Instrument (Local Environmental Plan) Amendment (Low Rise Medium Density Housing) Order 2017 comes into effect on 6 July 2018. It mandates new medium density housing land use terms for inclusion as permissible uses in council local environmental plans. This change to the DCPs to add "medium density housing including" would encompass a range of medium density housing types.

Other changes - Mosman Residential Development Control Plan (RDCP)

Part	Change/s	Reason/s
4.2 Siting and Scale	<p>P15: Delete 'is appropriate' and replace with 'may be considered'. i.e.</p> <p>"The construction of garages and carports with a nil setback to a side boundary, or to a rear boundary that abuts a laneway, is appropriate may be considered subject to compliance with the listed criteria above."</p>	Such development may not be appropriate in all instances, depending on the circumstances of the case. It is more transparent to state that such development 'may be considered'.
4.4 Landscaping	<p>Within the third and fourth paragraphs, after 'minimum landscaped area' add the words 'as required in the LEP'.</p>	To clarify that the minimum landscaped area requirements are contained within the LEP. These planning controls were transferred from the DCP to the LEP on 12 December 2014.
	<p>At the end of Part 4.4 add O12 and P19, relocated from Part 5.7.</p> <p><i>O10. To have adequate private open space for residents.</i></p> <p><i>P19. For new dwelling houses, at least 24sqm of principal private open space must be provided, that meets the following:</i></p> <p>(a) <i>is an area that is directly accessible from, and adjacent to, a habitable room, other than a bedroom (such as a living room), and</i></p> <p>(b) <i>is at least 4m wide, and</i></p> <p>(c) <i>is at ground level (existing) and not steeper than 1:50 gradient, however, on sloping sites where this may be difficult to achieve an alternative design may be considered.</i></p>	Relocated from RDCP Part 5.7 Privacy and Security (O2 and P5), so objective and planning control can more readily be located. The provision itself has not changed.
5.5 Medium Density Housing	P38. Delete 'have regard to' and replace with 'consider and be guided by'	For consistency with Part 5.6 Heritage Conservation, P23, which states that the statement of significance for a heritage item or conservation area must be considered and guide any changes proposed.
5.7 Privacy and Security	Delete O2 and P5, and relocate to Part 4.4 Landscaping	Refer to comments above re Part 4.4.

Other changes - Mosman Business Centres Development Control Plan (BCDCP)

Part	Change/s	Reason/s
3.3 Notification of different types of development	Local development: (b) delete 'Mosman LEP 2008' and replace with 'the LEP'	To correct an error.
4.3 The Business Centres	(1) Spit Junction Business Centre - Planning control (n): delete 'possible'	Redundant. Refers to the possible closure of Clifford Street, however this has occurred.
5.1 Arterial Business Centres	P8 and caption to related image on the page/s that follows: Add '(above ground level (existing))' after '2 storeys' i.e. <i>"For sites adjoining residential zoned land, the first 2 storeys (above ground level (existing)) are to be setback a minimum of 1.5m from the common boundary."</i>	To clarify how Council assesses proposed development under this planning control, and for consistency with similar control in Part 5.2 Traditional Shopfront Terrace Business Centres (P10).
	P9 and caption to related image on the page/s that follows: Add '(above ground level (existing))' after 'second storey' in the first sentence i.e. <i>"The external building walls above the second storey (above ground level (existing)) are to be setback from the street so as not to exceed a 45 degree height plane. The 45 degree height plane is to be drawn from the top of the second storey walls (excluding parapets and corner elements) that face the street, lanes, public spaces and land zoned residential. Only storeys predominantly above ground level (existing) are to be included in the calculation of number of storeys, i.e. any basement level is not included."</i>	To clarify how Council assesses proposed development under this planning control. The third sentence of P9 also includes reference to 'above ground level (existing)' but to be clear it is also included within the first sentence.
5.3 The Spit Waterside	Introduction: delete 'Mosman LEP 2008' and replace with 'the LEP'	To correct an error.
7.1 Use of footpaths for outdoor dining and display of goods	Delete 'NSW Roads and Maritime Authority' and replace with 'NSW Roads and Maritime Services'.	Reflects change of agency name.

Other changes - Mosman Open Space and Infrastructure Development Control Plan (OSIDCP)

Part	Change/s	Reason/s
1.1 Name of this Plan and when this Plan came into force	Delete reference to how the Plan was prepared, when it is to be considered.	For consistency Mosman Residential DCP and Mosman Business Centres DCP. It is unnecessary to include such information in Part 1.1, as this is referenced elsewhere in the Plan, and regardless, it is a requirement of the Act.
1.3 Land to which this Plan applies and Throughout	In brackets, after 'Mosman Local Environmental Plan' add 'the', i.e. (the LEP). Thereafter, throughout the DCP, refer to Mosman LEP 2012 only as 'the LEP'.	For consistency with Mosman Residential DCP and Mosman Business Centres DCP, and for simplicity, Mosman LEP 2012 is known throughout the DCPs as the LEP.