

## 3.10 Commercial Uses

### Amendment history

Version Number	Date Adopted by Council	Commencement Date	Amendment Type
1	15/11/2011	15/06/2012	New
2	27/06/2017	10/07/2017	Amended

### Savings provisions

Any development application lodged but not determined prior to this section coming into effect will be determined taking into consideration the provisions of this section.

### Land to which this section applies

This section applies to all land zoned:

- R4 High Density Residential
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development.

### Development (type/s) to which this section applies

This section applies to the following development when located within the zone to which this section applies:

- business premises
- office premises
- retail premises
- wholesale suppliers
- registered clubs
- food and drink premises
- function centres
- service stations
- vehicle sale or hire premise
- amusement centre
- entertainment facility
- veterinary hospital.

### Applicable environmental planning instruments and legislation

The provisions of the following listed environmental planning instruments also apply to development applications to which this section applies:

- Newcastle Local Environmental Plan 2012
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

In the event of any inconsistency between this section and the above listed environmental planning instruments, the environmental planning instrument will prevail to the extent of the inconsistency.

Note 1: Additional environmental planning instruments may also apply in addition to those listed above.

Note 2: Section 74E (3) of the *Environmental Planning and Assessment Act 1979* enables an environmental planning instrument to exclude or modify the application of this DCP in whole or part.

## Related sections

The following sections of this DCP **will** also apply to development to which this section applies:

- 4.04 Safety and Security
- 7.02 Landscaping, Open Space and Visual Amenity
- 7.03 Traffic, Parking and Access
- 7.05 Energy Efficiency
- 7.06 Stormwater
- 7.07 Water Efficiency
- 7.08 Waste Management
- 7.09 Advertising and Signage
- 7.10 Street Awnings and Balconies.

The following sections of this DCP **may** also apply to development to which this section applies:

- 4.01 Flood Management – all land which is identified as flood prone land under the Newcastle Flood Policy or within a PMF or area likely to flood
- 4.02 Bush Fire Protection – within mapped bush fire area/zone
- 4.03 Mine Subsidence – within mine subsidence area
- 4.05 Social Impact – where required under ‘Social Impact Assessment Policy for Development Applications’, 1999
- 5.01 Soil Management – works resulting in any disturbance of soil and/or cut and fill
- 5.02 Land Contamination – land on register/where risk from previous use
- 5.03 Tree Management – trees within 5m of a development footprint or those trees likely to be affected by a development
- 5.04 Aboriginal Heritage – known/likely Aboriginal heritage item/site and/or potential soil disturbance
- 5.05 Heritage Items – known heritage item or in proximity to a heritage item.
- 5.06 Archaeological Management – known/likely archaeological site or potential soil disturbance
- 5.07 Heritage Conservation Areas – known conservation area
- 6.01 Newcastle City Centre East - located within the Newcastle City Centre East precinct
- 6.02 Newcastle City Centre West – located within the Newcastle City Centre West precinct
- 6.03 Wickham – located within the Wickham precinct
- 6.04 Islington Renewal Corridor – located within the Islington renewal precinct
- 6.05 Mayfield Renewal Corridor – located within the Mayfield renewal precinct
- 6.06 Hamilton Renewal Corridor – located within the Hamilton renewal precinct
- 6.07 Broadmeadow Renewal Corridor – located within the Broadmeadow renewal precinct
- 6.08 Adamstown Renewal Corridor – located within the Adamstown renewal precinct
- 6.09 Darby Street, Cooks Hill – located within the Darby Street Precinct
- 6.10 Beaumont Street, Hamilton – located within the Royal Newcastle Hospital Site
- 6.11 Royal Newcastle Hospital Site – located within the Royal Newcastle Hospital Site
- 6.12 Minmi – located within the Royal Newcastle Hospital Site
- 7.04 Movement Networks – where new roads, pedestrian or cycle paths are required.

## Associated technical manual/s

- Nil

## Additional information

- Nil

## Definitions

A word or expression used in this development control plan has the same meaning as it has in Newcastle Local Environmental Plan 2012, unless it is otherwise defined in this development control plan.

Other words and expressions referred to within this section are defined within Part 9.00 – Glossary of this plan, and include:

- **Active street frontage** - a street frontage that enables direct visual and physical contact between the street and the interior of the building. Clearly defined entrances, windows and shop fronts are elements of the building façade that can contribute to an active street frontage.
- **Building envelope** - the three dimensional space that limits the extent of a building on an allotment. The building envelope is defined by building height and front, side and rear boundary setbacks. Refer to definitions for building height and setback for inclusions and exclusions.
- **Building height (or height of building)** - has the same meaning as in Newcastle Local Environmental Plan 2012. The term is defined as the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.
- **Building line or setback** - has the same meaning as in Newcastle Local Environmental Plan 2012. The term is defined as the horizontal distance between the property boundary or other stated boundary (measured at 90° from the boundary) and:
  - (a) a building wall, or
  - (b) the outside face of any balcony, deck or the like, or
  - (c) the supporting posts of a carport or verandah roof,whichever distance is the shortest.
- **Landscaped area** - has the same meaning as in Newcastle Local Environmental Plan 2012. The term is defined as a part of the site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

## Aims of this section

1. To enhance the economic viability of commercial centres.
2. To encourage commercial development that has a positive contribution to surrounding development.

3. To establish the scale, dimensions and form of development appropriate for the context of the area.
4. Create people friendly places with active street frontages.

Note: Urban Design Consultative Group

Proposals involving larger development which, by virtue of their location or scale, are likely to have a significant impact within the city may be referred to Council's Urban Design Consultative Group for independent advice.

In some instances, there will be the opportunity to discuss your proposal directly with the Group prior to the lodgement of your application. The Group will be able to offer independent advice regarding the proposal. The recommendations and advice of the Group will be taken into consideration when assessing the development.

### 3.10.01 Height of buildings

#### *Objectives*

1. Ensure the scale of development enhances and makes a positive contribution towards the desired built form by reinforcing the established centres hierarchy.
2. Allow reasonable daylight access to all developments and the public domain.

#### *Controls*

##### Controls applying to all development to which this section applies

1. Refer to the Newcastle Local Environmental Plan 2012 for building height controls.

### 3.10.02 Density - floor space ratio

#### *Objectives*

1. Provide an appropriate density of development consistent with the established centres hierarchy.
2. Ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the centres hierarchy.

#### *Controls*

##### Controls applying to all development to which this section applies

1. Refer to the Newcastle Local Environmental Plan 2012 for floor space ratio controls.

### 3.10.03 Streetscape and front setbacks

#### *Objectives*

1. Ensure new development makes a positive contribution to the local context.

#### *Controls*

1. Within established areas the front setback is consistent with those of adjoining development. Some variations to minimum setbacks can be considered particularly where such variations are used to create streetscape variety and interest.
2. Development facilitates pedestrian access from the street frontage and provides individual identity to dwellings.

### 3.10.04 Side and rear setbacks

#### *Objectives*

1. Enable flexibility in the siting of buildings and the provision of side and rear setbacks.
2. Ensure adequate natural light, ventilation and privacy between buildings.
3. Ensure buildings are related to land form, with minimal cut and fill.

#### *Controls*

1. Side and rear setbacks to walls are in accordance with the Building Code of Australia and subject to consideration of impact on the privacy, private open space and solar access of adjoining properties.

### 3.10.05 Street activation

#### *Objectives*

1. Provide activation of street frontages to ensure a safe and accessible environment.
2. Promote uses that attract pedestrian traffic along ground floor street frontage in business zones.

#### *Controls*

The following controls apply to all development which this section applies

1. Provide activated street edges at ground level through the provision of retail premises or business premises uses in business/commercial zones.
2. Ground floor retail uses provide multiple pedestrian accesses along the street frontage.

3. A visual connection into uses at ground level and avoid the use of solid walls or covered glassing for lengths greater than 3m.

### **3.10.06 Building design and appearance**

#### **Objectives**

1. Ensure the design of new development responds to and contributes to its context.
2. Encourage the creation of attractive well designed development.

#### **Controls**

1. New development enhances and makes a positive contribution towards the desired built form.
2. The following features of existing areas are considered and integrated into new development where possible:
  - (a) street setbacks
  - (b) grouping or 'rhythm' of buildings within the streetscape
  - (c) corner feature sites
  - (d) traditional street and lane patterns
  - (e) pedestrian walkways and other public open space areas
  - (f) pavement design, including materials and finishes, kerb and gutter treatment.

### **3.10.07 Views and privacy**

#### **Objectives**

1. Encourage the sharing of views while not restricting the reasonable development potential of a site.

#### **Controls**

1. Properties are able to be developed within the established planning guidelines, however, existing views from dwellings are not substantially affected where it is reasonable to design for the sharing of views.
2. Grand vistas and views from dwellings which are recognised and valued by the community are not unreasonably obscured by new development.
3. Views to heritage or familiar dominant landmarks from dwellings are not unreasonably obscured.

4. A minimum 9m separation is provided between the windows of habitable rooms of facing dwellings that abut a public or communal street. This distance is increased to 12m for windows above first floor level.
5. Direct views between living area windows of adjacent dwellings are screened or obscured where:
  - (a) ground and first floor windows are within an area described by taking a 9m radius from any part of the window of the adjacent dwelling. An area so defined is described as a 'privacy sensitive zone'.
  - (b) other floor windows are within a 'privacy sensitive zone' described by a 12m radius.
6. Direct views from living rooms of dwellings into the principal area of private open space of other dwellings are screened or obscured within a 'privacy sensitive zone' described by a 12m radius.
7. Direct views described in (5) and (6) may be obscured by one of the following measures:
  - (a) 1.8m high solid fences and walls between ground floor level windows and adjoining open space, where the slope is below 10%
  - (b) screening that has a maximum area of 25% openings, is permanently fixed and is made of durable materials
  - (c) landscape screening either by existing dense vegetation or new planting that can achieve a 75% screening effectiveness within three years.
8. Mechanical plant or equipment designed and located to minimise noise nuisance.

### 3.10.08 Fencing and walls

#### Objectives

1. Ensure front and side fences and walls provide privacy, security and noise attenuation without having a detrimental impact upon the streetscape and adjacent buildings.
2. Ensure that fencing provides for active street frontages and pedestrian access.
3. Enable outlook from buildings to the street for safety and surveillance.

#### Controls

1. The use of fencing along street frontages is not supported.
2. Fences and walls complement the existing streetscape in relation to scale and materials and use similar or compatible materials to those used in attractive buildings within the locality.
3. The use of sheet-metal fencing is avoided adjacent to public places, unless the visual impact is softened by landscaping.

### 3.10.09 Utilities and services

#### *Objectives*

1. Ensure site facilities, such as garbage and recycling bins / enclosures, mail boxes, external storage facilities, exterior lighting and signage are designed to be conveniently reached and require minimal maintenance.
2. Ensure facilities are visually attractive and blend in with the streetscape.

#### *Controls*

1. Mail boxes (where provided onsite) are located close to each ground floor entry, or a mail box structure located close to the major pedestrian entry to the site and complying with the requirements of Australia Post.
2. Bin storage areas are roofed and designed to conceal contents from view from adjacent public space and/or other properties. The bin storage area is provided with a water-tap for wash down purposes and is drained to connect to the sewer. The bin storage area is located as close as practicable to the pick-up location.