

PART D
Commercial Development

Part D: Commercial Development

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1 Introduction

Willoughby local government area has several commercial zones with different functions that support local commercial and retail centres and the strategic centres of St Leonards and Chatswood.

Greater Sydney Commission's Sydney Region Plan and North District Plan confirm Chatswood and St Leonards as two of Sydney's important strategic centres with significant economic and employment opportunities.

Willoughby City Council is committed to maintaining and increasing the potential of these larger centres as well as our smaller local centres. We aim to provide a strong framework to guide future commercial and employment activity across the Willoughby area.

This part of Willoughby Development Control Plan (Willoughby DCP) includes performance criteria and controls for all types of commercial development, including shop top housing and mixed use developments.

1.1 Aim

The aim of this part is to ensure all commercial development sustains and enhances the economic and environmental qualities of Willoughby and surrounding local government areas.

1.2 Objectives

The objectives of this part are to:

a. ensure controls do not inhibit economic development

b. ensure a high standard of urban design that makes a positive contribution to the streetscape and reinforces the importance of pedestrian areas

c. achieve energy efficient and sustainable buildings and developments that promote sustainable transport initiatives

d. ensure commercial development maximises thermal comfort and minimises urban heat impacts in the interests of health and wellbeing

e. provide a satisfactory transition and minimises any adverse effects between commercial uses and adjacent residential areas

f. ensure development is carried out in line with planning strategies for local centres, and the strategic centres of Chatswood CBD and St Leonards

g. ensure development is carried out in line with state plans, policies and guidelines

2 Strategies and plans

A set of studies, strategies and plans by Willoughby City Council set the direction for future commercial and residential development in key locations in the area.

Part L of Willoughby DCP details several place based plans. A brief description of the strategies adopted to inform these place-based plans is below.

2.1 Willoughby Local Centres Strategy 2036

This strategy aims to revitalise the local economy and provide the framework for future planning controls to achieve thriving, attractive and distinctive local centres. Those centres are:

a. Artarmon

The western side of the Artarmon local centre is on Hampden Road, next to Artarmon railway station. Wilkes Plaza, a pedestrian thoroughfare through an open space area, is on the eastern side of the station. The centre is within the Artarmon Heritage Conservation Area.

b. Castlecrag

The Castlecrag local centre is on Edinburgh Road between Eastern Valley Way and Rutland Avenue/The Postern. The centre adjoins and is partly within the Griffin Heritage Conservation Area.

c. North Willoughby

The North Willoughby local centre is around the intersection of Penshurst Street and Victoria Avenue, extending south to Patrick Street.

d. High Street

The major portion of the High Street local centre is on the eastern side of the street, bounded by McClelland Street and Glover Street. Two properties in the centre are on the north-western corner of High Street and Horsley Avenue.

e. Naremburn

The Naremburn local centre is on the western side of Willoughby Road, bounded by Quiamong Street, Bongalong Street and Glenmore Street. The centre includes two heritage items.

f. Northbridge

The commercial precinct of Northbridge is along the major arterial roads of Sailors Bay Road, Eastern Valley Way and Strathallen Avenue. Northbridge Plaza is on the north-eastern corner of Eastern Valley Way and Sailors Bay Road. There is a large council carpark at the rear of the shopping complex.

g. Penshurst Street

The Penshurst Street commercial centre is located along and north of Mowbray Road. There is an eclectic mix of business premises, shop top housing, and a small retail shopping strip on the eastern side of Penshurst Street near Oakville Road.

h. Willoughby South

The commercial area of the Willoughby South local centre predominantly fronts Willoughby Road with further commercial areas branching off Frenchs Road. The Bridge View Hotel and the facades of the shops at 549–553 Willoughby Road are local heritage items.

The performance criteria and controls in this part apply to local commercial centres. Specific performance criteria and controls for local centres are in Part L of this plan.

If there is any inconsistency between this part and Part L, the controls under Part L prevail.

Willoughby Local Centres Strategy 2036 is at willoughby.nsw.gov.au.

2.2 Chatswood CBD Planning and Urban Design Strategy to 2036

This strategy guides future private and public development over the next 20 years. The CBD includes a large mix of land uses. These include commercial/office buildings, civic buildings, library and performance facilities, major retail complexes, banking and other services, cafes, restaurants and private health facilities and schools.

The performance criteria and controls in this part apply to Chatswood CBD. See Part L of this plan for specific performance criteria and controls for Chatswood CBD.

If there is any inconsistency between this part and Part L, the controls under Part L prevail.

Chatswood CBD Planning and Urban Design Strategy to 2036 is at: willoughby.nsw.gov.au.

2.3 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The Codes SEPP includes provisions that affect commercial development.

The exempt development codes allow certain structures, business and building identification signs and land uses to take place without approval, subject to prescribed development standards and other relevant provisions.

The commercial and industrial alterations code (Codes SEPP, Part 5) allows certain works and change of use to be done as complying development.

A development application (DA) is required if a proposal does not satisfy all the criteria for either exempt or complying development under Codes SEPP.

The Codes SEPP is at legislation.nsw.gov.au.

3 Major developments

Major commercial developments include:

a. the erection of a new buildings with a gross floor area exceeding 1,000m^2

b. substantial redevelopment, refurbishment, or conversion of commercial premises with a gross floor area exceeding 1,000m^2

c. shop top housing or mixed use developments that are three or more storeys and have four or more dwellings

Notes:

- Redevelopment is generally seen as ‘substantial’ if the proposal will result in more than a 10% increase in the gross floor area.
- Depending on the size and scale, and any likely impacts, an authorised officer may determine that a proposal is major development.
- An authorised officer is an employee with delegated authority to make decisions on behalf of Willoughby City Council.

- As well as the commercial zones, shop top housing is permissible in the R4 High Density Residential zone.
- Mixed use developments are only permissible in the B4 Mixed Use zone.

4 Performance criteria and controls

The street frontage of commercial development should generally maintain the pattern and spacing of adjoining buildings and create active street frontages to attract pedestrian traffic within the commercial precinct.

The performance criteria and controls apply to all commercial developments. Any variation of these controls must be justified and consider the performance criteria below.

4.1 Building design

4.1.1 Performance criteria

a. the type and style of building should reflect the function of the commercial precinct and create quality urban design forms that enhance the character of the existing retail/commercial area

b. materials, colours, finishes, fenestration, proportion, and scale of development should create interest, and blend with the façade of existing retail shop fronts and other commercial uses

c. the location of vehicle access and manoeuvring areas must not dominate or detrimentally affect the continuity of building façades

d. the design of buildings should create a balance between the amount of solid walls and openings of retail and commercial premise, and between the extent of horizontal and vertical elements to achieve visual interest at all levels

e. new development should reinforce existing roof forms, building height and proportions of building elements, including any distinctive parapets, gables, or ridges

f. ground level frontages should be transparent to allow interaction with the public domain by observation of activity and/or products displayed internally

g. the design should accentuate buildings on prominent corner sites and define the main points of entry to commercial/business centres; this may include a change in colours and materials, a partial additional storey, parapet extension, splayed setbacks and/or public art or landscape treatment, or other elements such as clock towers

h. the design of new buildings or alterations and additions must retain the stylistic or architectural character of the commercial precinct, particularly in heritage conservation areas

4.1.2 Controls

a. use of roller shutters in lieu of glazed facades is not permissible unless a minimum 70% of the roller shutter is transparent

b. any kind of internal security shutter, mesh gate or similar must be located a minimum of 1m behind the facade of the premises facing a public space or at the rear of any display window

c. any plant, equipment or machinery should be suitably screened from the general public

d. the above awning facades of 2-storey shop frontages should have a solid to void ratio of around 60:40

e. developments should use materials with a low solar reflectance index (SRI) and incorporate shade structures to reduce urban heat island effects

f. the entire ground floor level of a shop top housing development must be used for retail/commercial purposes; this may include loading/unloading facilities but does not include car parking

4.2 Design in heritage conservation areas

4.2.1 Performance criteria

a. ensure the heritage significance and streetscape character of the heritage conservation area is maintained

b. ensure views and vistas along streets and from public places of buildings of heritage significance are maintained

4.2.2 Controls

a. extensions and additions to buildings in conservation areas are to be designed to complement their style, form, proportions, materials, colours and overall heritage context of their setting

b. early building names and any historical painted advertising signs are to be preserved

c. the form and treatment of new additions must consider sightlines to ensure they do not dominate the heritage value of shop fronts when viewed from the street and public domain.

Note:

- For more information on heritage conservation areas, see Part H of this plan.

4.3 Awnings

4.3.1 Performance criteria

a. ensure awnings provide adequate shelter from rain and sun in locations of pedestrian activity

b. retain, reinstate or provide appropriate awnings that are designed to match traditional patterns (particularly in heritage conservation areas)

c. be designed to allow tree planting at regular intervals

4.3.2 Controls

a. if the existing awning is a traditional suspended steel box section type, it should be retained; if a new awning is needed it should match adjoining awnings and maintain the same alignment

b. new awnings should:

- be of opaque materials with glass inserts to allow light penetration to the footpath
- be continuous for the entire site frontage, including any vehicle entrance
- be set back 600mm from the footpath edge
- have a recess or opening to accommodate the growth of street trees
- have a height clearance above the footpath between 3m and 4.2m
- maintain the horizontal alignment, stepping down at regular intervals to follow the topography of the site where the footpath is sloping

c. entrances to large frontage developments can incorporate raised or arched canopy elements to highlight the entrance; these should be in scale with the building and compatible with the prevailing street awning character

Notes:

- No part of a building, including an awning, can project beyond the alignment of a road to which the building has a frontage. However, the *Roads Act 1993* enables Willoughby City Council as the road authority and owner of the road to grant approval to allow an awning to extend over a public road.
- Approval can be sought for an awning as part of a development application for a proposed development.
- If approval is only sought to erect an awning, a separate application for approval is required under the *Roads Act 1993*.

4.4 Frontages

4.4.1 Performance criteria

a. ensure no site is isolated by development on an adjoining allotment

b. provide adequate width for separation between vehicle driveways

4.4.2 Controls

a. a minimum width of 27m is required for developments that exceed 11m in height or where vehicular access is only available from the primary street frontage

b. no more than 30% of the street frontage is to be used for vehicle and pedestrian access to lower and upper levels

c. the bulk of new facades should be divided into equal units of around 6m each to reflect traditional small retail shopping frontages

d. allotments should be consolidated to reflect the general pattern of street frontages in the commercial precinct

Note:

- Development may be allowed on an existing lot that is isolated and cannot be consolidated with another lot. It may also be allowed on an existing lot if written advice is provided to Willoughby City Council that adjoining landowners are not willing to consolidate their properties.

4.5 Streetscape

4.5.1 Performance criteria

a. ensure the frontage of shops and business premises are consistent with the general pattern and spacing of buildings in the commercial precinct

b. achieve attractive streetscapes that add visual interest and amenity to pedestrian areas

c. reflect the function and character of the commercial precinct

d. integrate new development into and not in contrast with the streetscape character of established commercial areas

4.5.2 Controls

a. new developments or significant alterations and additions may be required to provide improvements to the quality of the public pedestrian domain, such as adding suitable paving, street trees and landscaping

b. if shop frontages are predominantly built along the street alignment, new developments or significant alterations and additions may be required to improve the pedestrian amenity at street level with transparent interactive frontages, including outdoor seating and/or dining areas

4.6 Car parking and vehicular access

4.6.1 Performance criteria

a. adequate provision for customer/visitor and employee car parking onsite

b. the provision of visitor bicycle spaces, and secure bicycle areas and end-of -trip facilities for employees

c. adequate turning areas provided to enable all commercial vehicles and trucks, including access for waste disposal trucks, to enter and leave the site in a forward direction

d. all vehicular access should be provided from a secondary street or laneway; if no alternative vehicular access is available, the entry/exit from the building and the footpath crossing must be designed to give priority to pedestrians

4.6.2 Controls

a. the width of the entry portal for a driveway providing access to a car parking area should not exceed 5m and the head clearance should not be more than 2.4m. If the access is also the entry to a loading dock, a head clearance of 3.6m may be allowed

b. the layout of car parking spaces must comply with AS/NZS 2890.1 and AS/NZS 2890.6 and details are to be shown on the architectural plans

c. the location, siting and grades of driveways, and driveway width must be in line with Australian Standard AS/NZS 2890.1

d. all new developments and significant alterations and additions must provide accessible car parking spaces for people with disability in line with Section D3.5 of the Building Code of Australia under the National Construction Code

e. details of swept paths may be required to demonstrate all vehicles can enter and leave the site in a forward direction

f. compliance with the provisions in Part F (Transport and Parking Management) of this plan

4.7 Loading/unloading facilities

4.7.1 Performance criteria

a. adequate provision for the safe loading and unloading of goods onsite without impacting pedestrian or vehicular traffic within the site or on adjacent streets

4.7.2 Controls

a. each commercial premises must have a separate loading facility provided off a secondary road or laneway

b. if onsite loading facilities are not available, details are to be provided of the nearest on-street loading areas and the method of conveying goods in a safe and efficient manner to and from the premises

c. all new commercial developments, and developments that involve significant demolition, alterations or additions with a floor area in excess of 1,000m^2 must make adequate provision for off-street loading and unloading facilities in line with Part F of this plan

4.8 Waste and recycling

4.8.1 Performance criteria

a. improve environmental outcomes by reducing waste and increasing source separation of materials and management of waste and recyclable materials

b. ensure adequate space is provided for the storage and access to waste and recyclable containers

c. ensure safe and hygienic processes and practices are in place for workers and contractors for the storage, handling and collection of waste and recycling materials

d. ensure adequate facilities are provided for the disposal of hazardous, medical or any liquid waste which requires special licenses and/or storage and disposal arrangements with other government agencies

4.8.2 Controls

a. all waste management facilities must comply with the Building Code of Australia and relevant Australian Standards

b. any compactors or mechanical devices must comply with occupational health and safety requirements

c. bin storages areas must:

- be suitably screened from public areas and adjoining properties

- located in areas to reduce the impacts of visual amenity, noise, and odour

d. refrigerated garbage rooms are required in either of these cases:
    - the waste generated contains 20% or more by weight or volume of seafood, poultry or meat
    - 50 litres or more of seafood, poultry or meat is generated in total per day, unless the waste is collected daily
e. the onsite collection point must provide adequate space for garbage vehicles to enter and leave the site in a forward direction
f. basement waste and recycling storage areas and access to these areas must have a minimum clearance height of 4.5m to accommodate waste and recycling collection vehicles
g. a resource recovery and waste management plan must be submitted with the development application (see Attachment 1 in this part)

4.9 Pollution control

4.9.1 Performance criteria

a. not cause air pollution, odour nuisance or unacceptable noise levels
b. ensure appropriate measures are in place to protect the environment and amenity of workers, and people living and other workers in the vicinity, who could be adversely affected by the operation of the development

4.9.2 Controls

a. depending on the type, scale, and location of development, the development application may need to include an acoustic report and/or other reports to address pollution control measures
b. depending on the type, scale, and location of construction works, the application may need to include a site management plan to address sediment and erosion control measures
c. the discharge of any solid, liquid, or gaseous materials must comply with the *Protection of the Environment Operations Act 1997*
d. if there is likely to be a need for the disposal of liquid waste to the sewer, Sydney Water should be contacted for its requirements on installing grease arrestors
e. new commercial buildings which include retail premises that allow cafés, restaurants or similar, must make adequate provision for the vertical discharge of exhaust from the lower floor levels
f. the hours of operation may be restricted if a particular use is likely to interfere with the residential amenity of adjoining and nearby dwellings

Note:

- The hours of operation for other permissible uses in commercial areas, such as function centres, recreation facilities and sex services premises will be assessed on the individual merits of the proposal. The assessment will consider any likely impacts on other commercial premises and/or adjoining and nearby dwellings.

4.10 Stormwater disposal and flooding

4.10.1 Performance criteria

a. ensure the installation of onsite detention systems make adequate provision for reuse and stormwater disposal

b. ensure properties identified as flood prone land provide appropriate flood mitigation measures

c. encourage water sensitive urban design measures to minimise impacts on the natural water cycle and foster ecological sustainability

4.10.2 Controls

a. depending on the type, scale, and location of development, the development application may need to include a stormwater management plan

b. if the development is on flood prone land, the development application may need to include a flood risk assessment report and/or a flood study

c. new commercial developments on land exceeding 2,000m^2 must implement appropriate water sensitive urban design measures

d. the application must show the proposal satisfies the objectives and controls in Part I (Stormwater Management) in this plan

4.11 Sustainable development

4.11.1 Performance criteria

a. the development will result in an environmentally sustainable building(s) and create energy efficient operations

b. encourage alternative and sustainable transport strategies to reduce the use and reliance on motor vehicles as the principal mode of transport

4.11.2 Controls

a. depending on the type, scale and cost of development, the development application must include a Sustainable Performance Statement, a Green Star rating report, and/or a National Australian Built Environment Rating Scheme (NABERS)

b. the application must show the proposal satisfies the objectives and controls under Part J (Building Sustainability) in this plan

c. applications for large developments exceeding 2,000m^2 must include a travel demand management plan (green travel plan); this should detail how the operation intends to modify travel decisions to and from the building so that more desirable modes of transport are used, such as bicycles, car-pooling, mini-bus pick-up/drop off, and provision of car share spaces (see Part F in this plan for details)

Note:

- The Australian Government's commercial building disclosure program requires a NABERS Energy rating to be disclosed when office space of more than 2,000m^2 is offered for lease or sale.

4.12 Signage

4.12.1 Performance criteria

a. the number of signs is limited to avoid cluttering, distraction, and unnecessary repetition

b. corporate colours and signage on buildings do not have an adverse visual impact on adjoining and nearby properties and the public domain

4.12.2 Controls

a. the content must relate to the building and/or business on the site

b. the size of signs must be in proportion with the building

c. there must be an integrated and coordinated scheme for business identification signs for multi-tenanted buildings

d. there must be no glare or light spill from any signs onto adjoining properties

Notes:

- Signs, other than ‘building identification signs’ and ‘business identification signs’, are prohibited in the land use table for commercial zoned land.
- Many of these types of signs may be erected without approval under the relevant provisions of the Codes SEPP.
- A development application is required if any of the development standards for proposed ‘building identification signs’ or ‘business identification signs’ do not fully satisfy the exempt provisions of the Codes SEPP.
- Third party advertising signage is prohibited in the land use table for commercial zoned land.

4.13 Safety by design

4.13.1 Performance criteria

a. ensure appropriate safety and security measures are put in place to prevent criminal activity

4.13.2 Controls

a. the design should include high visibility to front entries, lighting of pathways or hidden spaces and where applicable, careful siting of shrubs and landscape elements

Note:

- The development application must include details of the design and safety measures incorporated into the design.

4.14 Utility facilities

4.14.1 Performance criteria

a. ensure adequate provision is made and integrated into the design of the development for utility facilities such as substations and water main boosters

4.14.2 Controls

a. the application must include written advice from the energy provider and Sydney Water that states if these utility facilities must be provided for the development

b. all facilities that are visible from the street or public domain must be suitably screened by landscaping

c. substations should preferably be located below ground level or at the rear of the property if rear lane access is available

4.15 Undergrounding of services

4.15.1 Performance criteria

a. to improve the visual amenity of the urban environment

4.15.2 Controls

a. all services for major developments exceeding 2,000m^2 are to be located underground (this includes publicly owned land immediately outside the development site)

Note:

- In some circumstances it may not be practical or possible to provide undergrounding of services. For example, there may not be sufficient capacity within the road reserve to accommodate additional services or it may be cost prohibitive to do these works as part of the proposed development.
- Any proposed variation to this control must include a written request to justify why this requirement cannot be satisfied.
- If there is a request to vary this requirement because it is considered cost prohibitive, the development application must include a detailed cost report prepared by a registered quantity surveyor.

5 Further controls for St Leonards strategic centre

The St Leonards and Crows Nest 2036 Plan by the NSW Department of Planning, Industry and Environment applies to parts of the Willoughby, North Sydney, and Lane Cove local government areas.

The plan aims to strengthen employment opportunities, improve social infrastructure, and take advantage of public transport connections related to a new metro station at Crows Nest.

Willoughby LEP includes an increase in the height and floor space for commercial development on specific sites to reflect the controls in the St Leonards and Crows Nest 2036 Plan.

Willoughby City Council has also adopted these controls for specific sites in the St Leonards strategic centre:

a. 2–10 Chandos Street (the Alto Ford site): any new development on this site must provide 4 storey wall heights.

b. 12 Chandos Street (College of Law building): any new development on this site must provide 4 storey wall heights.

c. 110–120 Christie Street: any new development on these sites must provide 2 storey wall heights.

d. 207 Pacific Highway: development on this site must provide a minimum 3m wide landscaped setback along the street frontage.

The St Leonards and Crows Nest 2036 Plan 2036 is at planning.nsw.gov.au.

6 Shop top housing and mixed use developments

The requirements under State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and the design guidelines and controls under the Apartment Design Guide, NSW Department of Planning and Environment, July 2015 apply to the residential component of buildings that have three or more storeys and four or more dwellings.

The relevant performance criteria in Section 2.1 and controls in Section 4.2 under Part B of this plan apply to the residential components of shop top housing and mixed use developments.

The further controls below apply to shop top housing and mixed use developments:

6.1 Setbacks

6.1.1 Front setback

a. the front (street) setback of the ground floor level may be set at the property boundary defining the street corridor with a continuous edge

b. the first floor level is required to be setback a minimum 2m from the street frontage

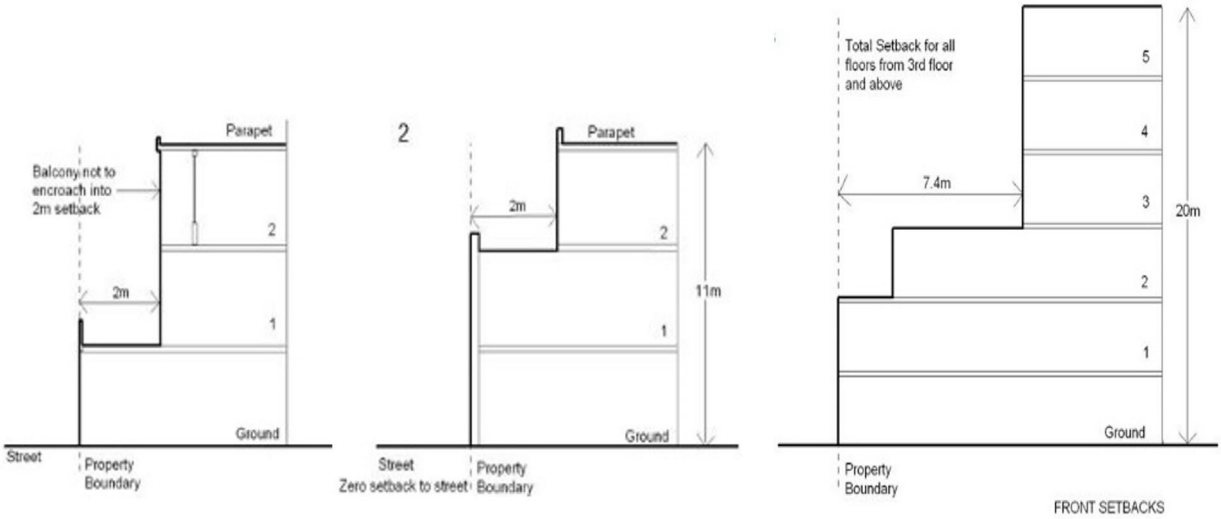
c. balconies are not to encroach into the required setback of the level below

d. the first floor level may have a zero setback if it comprises commercial uses and/or it is in keeping with established adjoining developments

e. the third floor level and above is required to be setback 5m plus 1.2m for each level above the third level

f. the total required setback applies to all floors above the third floor.

Figure 1 Front setbacks



6.1.2 Side setbacks

a. the ground floor level may have a zero setback

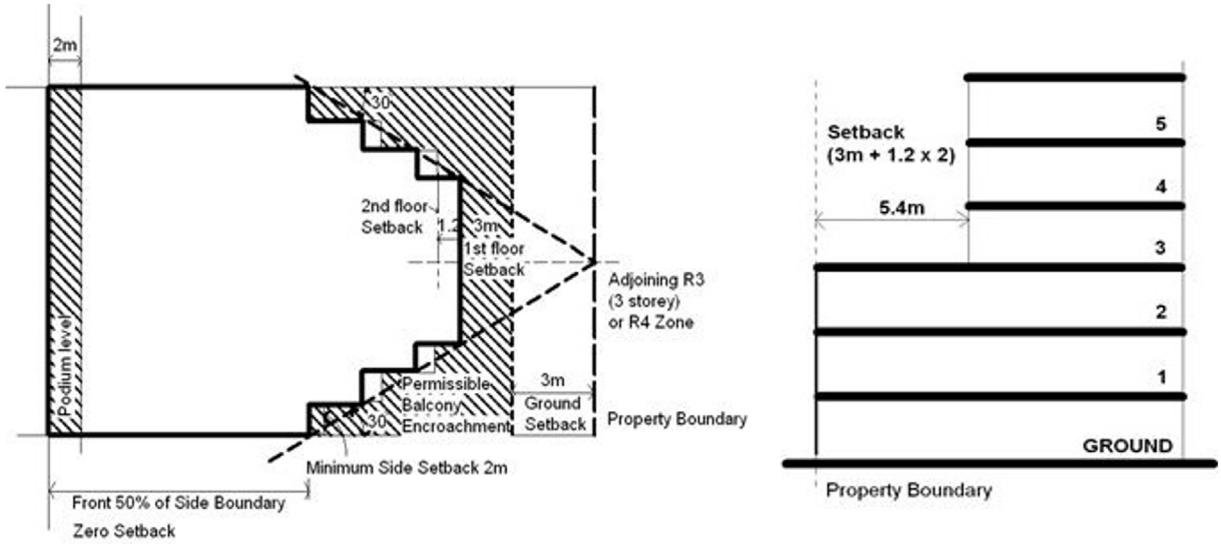
b. the first and second floor level are required to have zero setback for a maximum of 50% of the length of the side boundary located within the front half of the site

c. the side boundary setbacks for the first and second floors for the remainder of the building are to comply with the building envelop determined by a line projected horizontally at 30° from the side boundary from halfway along the boundary towards the rear of the site

d. the third floor and above is required to have a setback of 3m plus 1.2m for each level above the third level

e. the total required setback applies to all floors above the third floor

Figure 2 Side setbacks



6.1.3 Rear setbacks adjoining commercial, industrial or high density residential zoned land

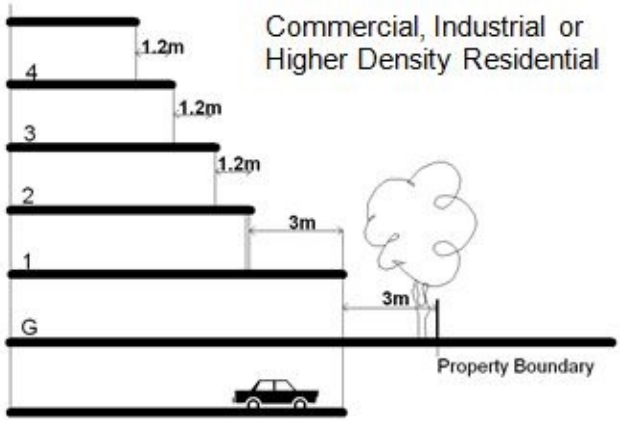
The rear setbacks below apply to developments adjoining commercial, industrial, medium density (R3 zone with a 12m height limit) and high density (R4 zone) residential land:

a. 3m from the ground floor level

b. a further 3m for the first floor level

c. and a further 1.2m for each additional floor level

Figure 3 Rear setbacks for developments adjoining commercial, industrial, R3 (12m height limit) and R4 zoned land



6.1.4 Rear setbacks adjoining low and medium density zone land

The rear setbacks below apply to developments adjoining low density (R2 zone) or medium density (R3 zone with a height limit of 9m). These setbacks apply whether or not the land is separated by a laneway:

a. 3m from the ground floor level

b. plus 6m for the first floor level

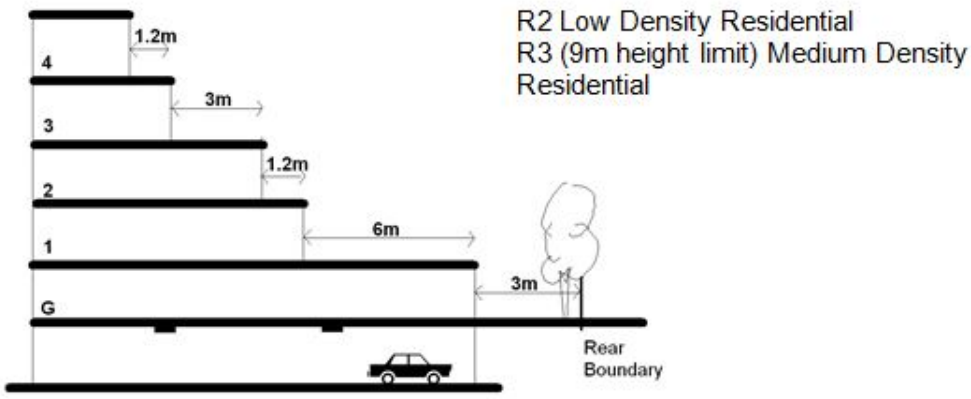
c. plus 1.2m for the second floor level

d. plus 3m for the third floor level

e. plus 1.2m for the fourth floor level

f. plus 3m for the fifth and each additional floor level

Figure 4 Rear setbacks for R2 and R3 (9m height limit) zones



Notes:

Willoughby City Council may consider a variation of the side and rear side boundary setback requirements if:

- the boundary line is on the boundary of a secondary road, laneway or reserve
- the wall height and length matches an existing building on the adjoining side of the site

6.2 Landscaping

a. a 3m wide deep soil zone must be provided along the rear boundary adjoining residential zoned land

b. the deep soil zones must be landscaped with trees that when mature, reach a minimum height of 15m and a minimum 3m wide tree canopy

c. a planter box with a minimum internal width of 1m must be provided along the edge of a balcony or terrace on the first floor level that faces low or medium density zoned land

d. a planter box with a minimum internal width of 400mm must be provided along the edge of a balcony or terrace on all other floors facing low or medium density zoned land (other than the street frontage)

e. all planter boxes must not exceed 1m in height, have a minimum soil depth of 600mm, and be landscaped with dense screen planting

f. a minimum of 20% of any podium and a minimum 20% of any rooftop open space must be landscaped

g. details of the type and height of shrubs and trees within the deep soil zones, planter boxes, podium and/or rooftop open space must be shown on the landscaped plans

6.3 Car parking and access

a. access to the residential car parking area must be separated from the commercial car parking and loading areas

b. shared car spaces may be provided for residential visitors and customers if unimpeded access is available at all times

c. vehicle movements for loading and unloading must be separated from all car parking areas

6.4 Building mass and bulk

a. buildings over 11m should have a defined podium level

6.5 Signage

a. signs are restricted to shop fronts, awnings and under awning signs

b. any signs must consider the visual impact on residential occupants, particularly in terms of illumination and light spill

7 Specific land uses

7.1 Sex services premises

Sex service premises, commonly referred to as brothels, are not a prohibited land use in B2 Local Centre and B3 Commercial Core commercial zones. However, there are strict limitations on where they may be located.

A development application for a sex services premises must include this information:

a. number of sex workers and support staff, including any security personnel

b. hours of operation

c. name of the proprietor

d. floor plan showing the entry and exits from the premises, and number and description of rooms within the premises, for example reception/office, waiting or lounge area, and sex worker rooms

e. description of safety by design measures

f. site plan showing the location of places of public worship, schools, community facilities, child-care centres, parks, playgrounds, hospitals, medical centres, bus stops, dwellings or any place in the vicinity of the premises that may be regularly frequented by children within a 200m radius

These controls apply to sex services premises:

g. must not be located within public view from a place of public worship, school, community facility, child care centre, hospital, medical centre, or any place in the vicinity of the premises that may be regularly frequented by children

h. must not form clusters within areas where brothels are permissible

i. approval will not be granted for another sex services premises located within a 100m of another existing approved premises

j. the operation is limited to not more than 10 sex worker rooms

k. owners, operators, managers and staff must be aware of and understand the ‘Health and safety guidelines for sex service premises in NSW’ by SafeWork NSW

'Health and safety guidelines for sex service premises in NSW' is at safework.nsw.gov.au.

Note:

- Willoughby City Council's environmental health officers, and authorised officers of the NSW Health and WorkCover, have the powers to conduct regular inspections of all sex services premises without notice to determine if the premises are complying with the required guidelines and health standards.

7.2 Outdoor dining areas

Outdoor dining areas can provide vitality to the streetscape in commercial precincts. Willoughby City Council encourages the use of footpaths and public space for outdoor dining areas in conjunction with a café or restaurant, providing they are established in appropriate locations.

Any application to lease a public footway from Willoughby City Council for an outdoor dining area must be associated with a food and drinks premises, café or restaurant. These conditions apply:

a. the minimum area for an outdoor dining area is $2m^2$

b. the public footway space must have a minimum width of 3.5m to the curb-line

c. an outdoor dining area should not be next to a bus stop, taxi rank, Australian Post mailbox, or automatic teller machine (ATM)

d. the outdoor area must not interfere with or prevent access to existing street elements such as street furniture, pedestrian crossings, traffic lights, street trees, planter boxes, and street or directional signs; a clear width of 2m should be maintained from these structures

e. the layout is consistent with other outdoor dining areas in the vicinity so that pedestrian circulation and flow is not obstructed

f. a minimum 900mm must be maintained between the curb-line and the outdoor dining area

g. the outdoor dining area must be immediately in front of the 'food and drinks premises', café or restaurant and not encroach on footpath space in front of adjoining premises unless written approval is provided by the owner or tenant of the adjoining premises; this approval must be provided if there is a change of tenant/owner or annually, whichever comes first

h. if the premises is on a corner, the outdoor dining area may occupy both street frontages subject to the same restrictions for a single fronted premises

An application for an outdoor dining area must include the information below:

1. details of furniture demonstrating that it is of high standard, safe and strong, wind resistant, and able to maintain a quality presentation

2. details of the type and height of barriers (barriers must not be used to completely enclose the outdoor dining area)

3. details of any business identification signs on the furniture and barriers; no third party advertising is permitted unless it is associated with the operation of the premises, such as the brand of coffee used

Notes:

- The use of a building, including an outdoor dining area, cannot extend beyond the alignment of a road to which the building has a frontage; but as the road authority and owner of the road, Willoughby City Council can grant approval to allow part of a footpath to be used as an outdoor dining area (*Roads Act 1993*).
- Approval can be sought for an outdoor dining area as part of a development application for a proposed development, but a separate approval to lease the land must be obtained from Willoughby City Council.
- If approval is only sought to use the footpath as an outdoor dining area, a separate application for approval is required under the *Roads Act 1993*.
- Furniture includes tables, chairs, umbrellas, bins, barriers, heating devices, and the like.
- No permanent structures are permissible, and all furniture must be removed if the business ceases to operate or there is a change of use or ownership, unless separate approval is obtained from Willoughby City Council.

7.3 Centre-based child care facilities

Centre-based child care facilities are permitted with consent in all commercial and residential zones. The definition of a centre based child care facility is in the dictionary in Willoughby LEP. It includes the use of a building or place that provides long day care, occasional child care, out-of-school-hours care (including vacation care), preschool care or an approved family day care venue.

Notes:

- An approved family day care venue is a place, other than a residence where an approved family day care service (within the meaning of *the Children (Education and Care Services) National Law (NSW)*) is provided.
- A centre-based child care facility does not include a building or place used for home-based child care or school-based child care.

A centre-based child care facility requires development consent from Willoughby City Council.

Notes:

- Development consent is conditional on the appropriate licensing approval from the NSW Department of Education – Early Childhood Directorate.
- Any approval by Willoughby City Council will not necessarily result in the issue of a license from the NSW Department of Education – Early Childhood Directorate.
- Applicants are encouraged to contact Willoughby City Council's Children's Services division before lodging a development application to obtain further information about rules and regulations, and licensing and operational requirements.

7.3.1 Site suitability

The selection of a site must have regard to all potential environmental health hazards or safety risks, including:

a. Electromagnetic fields

A child care centre should not be within 300m of mobile phone towers and base stations, transmission line easements or other sources of significant electromagnetic radiation.

b. Noise

Sufficient separation should be provided from busy roads and rail corridors to avoid adverse noise impacts. A child care centre should also be designed to mitigate any unreasonable noise impacts on adjoining and nearby properties.

These controls apply:

1. the use of the premises including indoor/outdoor play areas, traffic on site and mechanical plant shall not exceed the background noise level by more than 5dB at the most affected point on or within any receiving property boundary
2. the internal noise levels within indoor play or sleeping areas of the centre, when it is operating at full capacity, shall not exceed an Leq,1hr 40 dB(A)
3. the intrusive noise onto any outdoor play or activity area of the centre, when it is operating at full capacity shall not exceed an Leq,1hr 55 dB(A)

Note:

- An acoustic report prepared by a suitably qualified person must be submitted with the application showing that compliance with these requirements can be achieved.

c. Pollution and contamination

The location of child care centres, including outdoor play areas, should consider:

- pollution from vehicle fumes or any other air pollutants
- proximity to any water cooling/warming systems that may pose a risk of airborne contamination
- proximity to land use activities that may cause contamination, such as service stations

7.3.2 Emergency evacuation

Development applications for all child care centres must include an emergency evacuation plan. This plan must include this information:

a. the mobility of children and how this is to be accommodated during an evacuation, including the use of emergency evacuation cots

b. the location of a safe congregation area, away from the evacuated building, busy roads, other hazards and the evacuation points of other residents or tenants within the building or surrounding buildings

c. if the child care centre is part of a larger building or complex, that the emergency evacuation plan is complementary and consistent with other emergency evacuation plans in place

d. the supervision of children during the evacuation and at the safe congregation area with regard to the capacity of the child care centre and the child-to-staff ratios

Notes:

- Centre-based child care facilities in commercial buildings must demonstrate that suitable access is available to designated play areas, and effective emergency evacuation procedures can be provided for centres located above the ground floor level.
- Off-street car parking must be provided in line with the requirements of Part F (Transport and Parking Management) in this plan.

7.3.3 Specific controls for child care facility in residential areas

a. a minimum 20m frontage is required to ensure the site is compatible with surrounding residential properties, and adequate access is available for vehicles to enter and leave the site in a forward direction

b. to ensure good access is available for emergency vehicles and evacuation options/routes, child care centres should not be located in a cul-de-sacs or no through roads, except where more than one street access and egress is available to the site, and the centre has adequate parking and pickup/drop off spaces

c. unless otherwise approved, the hours of operation must not extend beyond 7am to 7pm Monday to Friday. Any application for extended hours of operation must consider likely impacts on adjoining and nearby residents

d. a landscape plan prepared by a suitably qualified person must be submitted with the application; landscaping of the site must consider to the relevant performance criteria under Section 2.1.5 (Landscaping) in Part B of this plan.

e. a site used as both a dwelling and a child care centre must provide the minimum required outdoor children's play area, and it must be separate to any outdoor areas associated with the use of the dwelling

Attachment 1: Resource recovery and waste management plan

The resource recovery and management plan must include this information:

a. The type and estimated quantity of garbage generated, and number of collections per week.

b. The type and estimated quantity of recycling materials generated, and number of collections per week.

c. An estimate of any garden or organic waste generated per week, and number of collections, if any, per week.

d. The size and number of mobile garbage bins and/or bulk bins to be used to manage garbage collection.

e. The type, size and number of recycling containers and any associated equipment to be used to manage recyclable materials.

f. The type, size and number of containers and any associated equipment, including any composting facilities, to be used to manage garden or organic materials.

g. Details of the location, size and access to garbage and recycling spaces/rooms.

h. Details of any refrigerated garbage rooms required for the disposal of seafood, poultry, meat, or other organic materials.

i. Details of the waste management arrangements, including safe and hygienic access to garbage and recycling spaces/rooms by employees and contractors. This should include:

    1. name of the contractor
    2. times, days and frequency to collect recyclable and general waste materials
    3. type and size of waste and recyclable collection vehicles to be used in the operation
    4. measures to achieve source separation of garbage and recyclable materials
    5. display of signs to ensure source separation and correct use of bins
    6. access to water and provision of high-pressure hose for washing bins and bin storage, and drainage to sewer
    7. person or persons responsible for cleaning bins and bin storage areas
    8. ventilation for bin storage areas
    9. features to prevent vermin entering bin storage areas
    10. method, distance, and grade of pathway to wheel mobile garbage bins to collection points
    11. driveway access to ensure vehicles can enter and leave in a forward direction
    12. education and any incentives to encourage correct waste management