



PART A

Overview of WDCP 2023



PART A: Overview of Willoughby Development Control Plan 2023

Contents

1	Introduction	3
1.1	About this plan	3
1.2	Aim	3
1.3	Objectives	3
2	Framework of this plan	3
2.1	Land covered by Willoughby DCP	3
2.2	Terms and definitions	3
2.3	Parts of this plan	4
2.3.1	Part A: Overview of Willoughby DCP	4
2.3.2	Part B: Residential Development	4
2.3.3	Part C: Development in C4 Environmental Living Zone.....	4
2.3.4	Part D: Commercial Development.....	5
2.3.5	Part E: Industrial Development	5
2.3.6	Part F: Transport and Parking Management	5
2.3.7	Part G: Vegetation Management.....	5
2.3.8	Part H: Heritage Items and Heritage Conservation Areas	5
2.3.9	Part I: Water Management.....	6
2.3.10	Part J: Building Sustainability.....	6
2.3.11	Part K: Development near Lane Cove Tunnel Ventilation Stacks.....	6
2.3.12	Part L: Place Based Plans	6
3	Existing use rights	6
4	The development application process	7
5	Notifications of development	7
6	Related plans, policies and guidelines.....	7
6.1	Willoughby Local Environmental Plan	7
6.2	Willoughby City Local Strategic Planning Statement	7
6.3	State environmental planning policies	8
6.3.1	State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	8
6.3.2	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	8
6.3.3	State Environmental Planning Policy (Planning Systems) 2021	9

Willoughby Development Control Plan Part A: Overview 2023

6.3.4	State Environmental Planning Policy (Biodiversity and Conservation) 2021	9
6.3.5	State Environmental Planning Policy (Resilience and Hazards) 2021	9
6.3.6	State Environmental Planning Policy (Transport and Infrastructure) 2021..	10
6.3.7	State Environmental Planning Policy (Industry and Employment) 2021	10
6.3.8	State Environmental Planning Policy (Housing) 2021	10
6.4	Other state and local plans, policies and guidelines	10

1 Introduction

1.1 About this plan

Willoughby Development Control Plan (Willoughby DCP) provides guidelines and controls for developments within the Willoughby local government area. This DCP repeals DCP 2006 pursuant to section 16 of the Environmental Planning and Assessment Regulation 2021. It supports the objectives and planning provisions in Willoughby Local Environmental Plan (Willoughby LEP).

All development applications submitted to Willoughby City Council are assessed in line with the performance criteria, development controls and other relevant provisions in this plan.

Each application is also assessed on the individual merits of the proposed development. A proposal may comply with the development controls in this plan but this does not necessarily ensure it will be approved.

This plan is in line with *Environmental Planning and Assessment Act 1979* (part 3, section 3.43) and *Environmental Planning and Assessment Regulation 2000* (part 3).

1.2 Aim

The aim of this part is to give an overview of the different sections of Willoughby DCP.

1.3 Objectives

This part:

- a. advises when a development application is needed and the supporting information required as part of the application
- b. explains how this plan relates to other state and local plans, policies, and guidelines
- c. details the other parts of Willoughby DCP.

2 Framework of this plan

2.1 Land covered by Willoughby DCP

This plan applies to all land and development within the City of Willoughby local government area.

2.2 Terms and definitions

The terms 'this plan', 'the plan', 'DCP' and 'Willoughby DCP' refer to this document, Willoughby Development Control Plan.

The terms 'Willoughby LEP' and 'the LEP' refer to Willoughby Local Environmental Plan.

The terms 'we', 'us' and 'our' in this plan refer to the local government authority 'Willoughby City Council', which serves the City of Willoughby local government area.

The terms 'local area' and 'our area' refer to the City of Willoughby local government area.

The term 'Council' refers to the elected group of councillors for Willoughby City Council.

An 'Authorised Officer' is a Council employee that has been granted delegated authority to make decisions on behalf of Council.

Other definitions and meanings of the terms used in this document are the same as the terms listed in the dictionary under Willoughby LEP and any other definitions under relevant state plans, policies or codes.

2.3 Parts of this plan

This plan is divided into 12 parts, A to L.

2.3.1 Part A: Overview of Willoughby DCP

This part outlines the DCP and includes a link to the development application process. It explains the relationship of this plan to other state and local plans, policies and guidelines.

2.3.2 Part B: Residential Development

This part includes these sections and attachments:

- a. Section 1 is an introduction with the aims and objectives for this part.
- b. Section 2 provides the performance criteria for all types of residential accommodation.
- c. Section 3 includes controls for 'minor' developments such as dwelling houses and dual occupancies.
- d. Section 4 provides guidelines and controls for major residential development, such as residential flat buildings, manor houses, and apartments associated with shop top housing and mixed use developments.
- e. Section 5 provides specific controls for additional permitted land uses such as secondary dwellings, bed and breakfast accommodation, boarding houses and 'built-to-rent' housing.
- f. Section 6 provides further controls for any future development of specific sites and areas.
- g. Attachment 1 includes a compliance checklist table for controls in the R2 zone.
- h. Attachment 2 includes a compliance checklist table for controls relating to manor houses, attached dwellings and multi dwelling housing in the R3 zone.
- i. Attachment 3 includes a compliance checklist of controls for residential development of three or more storeys and four or more dwellings in the R3 and R4 zones, and the residential components of shop top and mixed-use developments.

Further controls apply to developments in R2 zones that are within a heritage conservation area. Part H details these controls.

2.3.3 Part C: Development in C4 Environmental Living Zone

This part includes specific performance criteria and controls to provide for low impact development on land close to foreshore areas and environmentally sensitive locations.

Further controls apply to developments in C4 zones that are within a heritage conservation area. Part H details these controls.

2.3.4 Part D: Commercial Development

This part includes performance criteria and controls for all types of commercial development. This includes the commercial components of shop top housing and mixed use developments and placed based plans.

Further controls may apply to commercial and retail premises in a heritage conservation area. Part H details these controls.

2.3.5 Part E: Industrial Development

This part includes guidelines and controls for industrial development and other land uses permitted in the industrial zones.

2.3.6 Part F: Transport and Parking Management

This part applies to all developments. It provides advice and controls for traffic management, off-street car parking, bicycle parking and end-of-trip facilities, loading and unloading facilities, and other traffic and transport related matters.

It is informed by Willoughby Integrated Transport Strategy 2036. See willoughby.nsw.gov.au.

2.3.7 Part G: Vegetation Management

This part applies to any development that involves the removal of trees or vegetation.

It is made under Part 2.2 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*. See [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 - NSW Legislation](#)

It is supported by our Vegetation Management Guidelines. See willoughby.nsw.gov.au.

2.3.8 Part H: Heritage Items and Heritage Conservation Areas

This part is subject to Clause 5.10 (Heritage conservation) of Willoughby LEP. The clause deals with the environmental heritage of Willoughby, including heritage items, heritage conservation areas, conservation of archaeological sites, and conservation of Aboriginal objects and Aboriginal places of heritage significance.

Heritage items and an archaeological site are identified in Schedule 5 of Willoughby LEP. Heritage conservation areas are shown in the heritage maps accompanying the LEP.

Part H includes controls and measures to conserve and protect the heritage values of existing dwellings and commercial/retail buildings. It also has controls to ensure any new development is in keeping and sympathetic to the character of the particular heritage conservation area.

Any residential or commercial/retail development in a heritage conservation area must also consider the performance criteria and controls in parts B, C and D of this plan. If there is any inconsistency with the controls under parts B, C and D of the Willoughby DCP, the controls under Part H prevail.

The LEP does not identify Aboriginal objects or Aboriginal places of heritage significance. If a development is likely to disturb any natural bushland or geological features, applicants should contact Willoughby City Council to determine if a site comprises or is in proximity to an Aboriginal object or Aboriginal place of heritage significance.

2.3.9 Part I: Water Management

This part provides advice and controls for stormwater management. It applies to proposals for developments that will increase the amount of impervious surface areas and that need to provide an onsite detention (OSD) system and/or rainwater reuse tank.

2.3.10 Part J: Building Sustainability

This part provides advice and controls to achieve energy efficient and environmentally sustainable buildings. It applies to any application for new development or significant alterations and additions. These controls ensure best practice sustainability measures are included in the design and construction of buildings.

2.3.11 Part K: Development near Lane Cove Tunnel Ventilation Stacks

This part applies to any new development within an 800m radius of the ventilation stacks in Sirius Road and Marsden Street, Artarmon.

2.3.12 Part L: Place Based Plans

This part provides specific guidelines and controls for development in the Chatswood Central Business District (CBD) and the following local centres:

- Artarmon
- Castlecrag
- North Willoughby
- High Street
- Naremburn
- Northbridge
- Penshurst Street
- Willoughby South.

The performance criteria and controls for residential and commercial development in parts B and D of this plan also apply to these place based plans.

If there is inconsistency with the controls in parts B and D, the controls under Part L prevail.

3 Existing use rights

The existing use provisions under Division 4.11 of the *Environmental Planning and Assessment Act 1979* and Part 5 of the *Environmental Planning Regulations 2000* apply to any development that is not a permissible land use within a particular zone. This includes dwellings that are not permissible in the R3 Medium Density or R4 High Density Zones.

An application for change of use, alterations or extensions, or rebuilding of a non-conforming existing use, must address the standards for that type of development that would otherwise be permissible in a zone. The application will be assessed against the provisions in this plan for that type of development.

The onus of proof is on the owner of the subject property to establish that 'existing use rights' apply in line with Clause 4.65 of the Act and Section 39 of the Regulations.

4 The development application process

The forms, checklists and other details needed as part of a development application and modification application are at willoughby.nsw.gov.au.

Willoughby City Council offers applicants a pre-lodgement meeting for development applications. After the meeting we provide a written response.

Applicants can contact our Customer Services division for an appointment and the current fee for the pre-lodgement meeting.

The legal framework to lodge, assess and determine applications for development approval is in *Environmental Planning and Assessment Act 1979* (part 4, development assessment and consent). The Act is available at legislation.nsw.gov.au.

5 Notifications of development

Depending on the type and scale of development, a proposal may be notified and advertised before Willoughby City Council assesses and determines the application.

Our community participation process and practices in the planning process are set out in Willoughby Community Participation Plan. Part D of the plan details the development application notification process.

Willoughby Community Participation Plan is at willoughby.nsw.gov.au.

6 Related plans, policies and guidelines

6.1 Willoughby Local Environmental Plan

Willoughby LEP is the statutory planning instrument for land and development in the Willoughby local government area.

It provides the objectives and land use tables for residential, business, industrial, special purpose, and environmental protection zones. Each category identifies land uses that are permitted without consent, permitted with consent, and prohibited. It includes additional permitted uses under Schedule 1 for certain sites.

It also provides the principal development standards, including height of buildings and floor space ratio (FSR) controls.

This plan, Willoughby DCP, provides guidelines and controls that support Willoughby LEP.

6.2 Willoughby City Local Strategic Planning Statement

This is a 20-year vision for land use in the Willoughby local government area. It gives effect to the Greater Sydney Commission's North District Plan and informs this plan and Willoughby LEP.

It provides information on:

- the existing and future character of Willoughby
- future housing, jobs, and services
- future infrastructure requirements such as community facilities and transport initiatives

- protection of the environmental and heritage values, areas, and items.

The Willoughby City Local Strategic Planning Statement is at willoughby.nsw.gov.au.

6.3 State environmental planning policies

The NSW Government is responsible for many environmental planning policies (SEPPs). Some of these policies have inconsistent and overlapping controls.

The main policies and codes relevant to our local government area are listed below.

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

The provisions in this policy allow some structures and land uses to be carried out without approval, subject to certain development standards and other provisions. They also allow some business and building identification signs to be erected without approval.

The policy includes several codes that allow certain works, change of use and subdivision to be done as complying development.

These codes are relevant to our local government area:

- Housing Code (Part 3)
- Low Rise Housing Diversity Code (Part 3B)
- Housing Alterations Code (Part 4)
- General Development Code (Part 4A)
- Commercial and Industrial Alterations Code (Part 5)
- Commercial and Industrial (New Buildings and Additions) Code (Part 5A)
- Container Recycling Facilities Code (Part 5B)
- Subdivision Code (Part 6)
- Demolition Code (Part 7)
- Fire Safety Code (Part 8)

Willoughby DCP includes many of the same controls so that it is generally in line with these codes.

A development application (DA) is required if a proposed development does not satisfy all the criteria under the codes.

The Codes SEPP is at [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#).

6.3.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Under this policy an application for residential accommodation must include a BASIX certificate, which has a list of commitments to achieve a prescribed level of sustainable residential development.

Willoughby City Council cannot approve a development application for residential development that exceeds \$50,000, or a swimming pool or spa with a volume exceeding 40,000 litres, if it does not achieve the minimum BASIX score.

Detailed information on BASIX is available from the Department of Planning Industry and Environment at planningportal.nsw.gov.au/basix.

The BASIX SEPP is at [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#).

6.3.3 State Environmental Planning Policy (Planning Systems) 2021

The Planning Systems SEPP:

- identifies state or regionally significant development, state-significant infrastructure, and critical state-significant infrastructure
- provides for consideration of development delivery plans by local Aboriginal land councils in planning assessment
- allows the planning secretary to elect to be the concurrence authority for certain development that requires concurrence under nominated state environmental planning policies.

The Planning Policy SEPP is at [State Environmental Planning Policy \(Planning Systems\) 2021 - NSW Legislation](#)

6.3.4 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The Biodiversity and Conservation SEPP includes:

- planning rules and controls for the clearing of native vegetation in NSW on land zoned for urban and environmental purposes that is not linked to a development application
- provisions seeking to protect and preserve bushland within public open space zones and reservations
- provisions to manage and improve environmental outcomes for Sydney Harbour and its tributaries

The Biodiversity and Conservation SEPP is at [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 - NSW Legislation](#)

6.3.5 State Environmental Planning Policy (Resilience and Hazards) 2021

The Resilience and Hazards SEPP includes provisions:

- for land use planning within the coastal zone, consistent with the *Coastal Management Act 2016*
- to manage hazardous and offensive development
- which provide a state-wide planning framework for the remediation of contaminated land and to minimise the risk of harm.

The Resilience and Hazards SEPP is at [State Environmental Planning Policy \(Resilience and Hazards\) 2021 - NSW Legislation](#)

6.3.6 State Environmental Planning Policy (Transport and Infrastructure) 2021

The Transport and Infrastructure SEPP includes provisions:

- for infrastructure in NSW, such as hospitals, roads, railways, emergency services, water supply and electricity delivery
- for child-care centres, schools, TAFEs and universities

The Transport and Infrastructure SEPP is at [State Environmental Planning Policy \(Transport and Infrastructure\) 2021 - NSW Legislation](#)

6.3.7 State Environmental Planning Policy (Industry and Employment) 2021

The Industry and Employment SEPP includes provisions:

- for advertising and signage in NSW

The Industry and Employment SEPP is at [State Environmental Planning Policy \(Industry and Employment\) 2021 - NSW Legislation](#)

6.3.8 State Environmental Planning Policy (Housing) 2021

The Housing SEPP includes provisions relating to:

- boarding houses
- build-to-rent housing
- seniors housing
- group homes
- retention of existing affordable rental housing
- secondary dwellings (granny flats)
- social and affordable housing
- short-term rental accommodation.

The Housing SEPP is at [State Environmental Planning Policy \(Housing\) 2021 - NSW Legislation](#)

6.4 Other state and local plans, policies and guidelines

These policies and guides also apply to residential development:

- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development
- Apartment Design Guide, NSW Department of Planning and Environment, July 2015

More details on these are in Part B (Residential Development) of this plan.

Other plans, policies and guidelines may apply to specific or different types of developments. These can be found at legislation.nsw.gov.au.