

E1 Retail and Commercial Premises

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1.0 INTRODUCTION

This Part applies to all commercially zoned land in the Waverley Local Government Area (LGA). It specifically provides controls for establishing and operating retail and commercial premises. Commercial and neighbourhood centre controls also appear in:

- Part F1 – Bondi Junction Centre;
- Part F2 – Bondi Beach; and
- Part F5 – Local Village Centres.

1.1 Objectives of this Part

- (a) Minimise any potential adverse impacts on the surrounding environment;
- (b) Enhance the scenic quality and amenity of streetscapes and public places;
- (c) Regulate trading hours and monitor operations;
- (d) Promote sustainable operations;
- (e) Ensure operations are compatible with adjoining residential uses and are in accordance with the amenity expectations of the subject site and locality's zoning(s); and
- (f) Enhance commercial amenity and economic viability of commercial centres and promote active street level frontages in commercial precincts.

2.0 CONTROLS

2.1 Retail Frontages

The following controls apply to retail frontages:

- (a) Front windows and openings shall be designed to be sympathetic with the overall proportion of the building (refer to Figure 1). Doors and ATMs should not encroach beyond the boundary of the property.

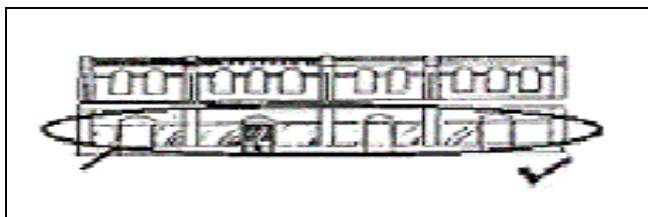


Figure 1. Shop front and openings are to be sympathetic with the overall proportions of the building and the division of the building into vertical bays.

- (a) Front windows shall be designed to promote an active street level frontage and have a display function. The use of obscured glazing is generally not supported. Where privacy is required, obscured glazing could be provided at the rear of the premises. Window and door frames should reflect the character of the building and/or area.
- (b) Premises are required to display a street number. The height of the numbers will be no less than 300mm presented in a clear readable font, located above the entry door, where possible.

- (c) Premises should have an awning except where structures are not compatible with the heritage or architectural style of the building. Continuous weather protection for pedestrians should be provided by premises located within shopping strips. Awnings should be designed in accordance with the building age and character.
- (d) The installation of roller shutters is not permitted. Such devices detract from the visual presentation of individual premises.
- (e) For heritage items or premises located within a heritage conservation area, exterior alterations are to be sympathetic to the heritage value and character. The use of colour palette should reflect relevant controls in order to unify facades. Facades should not be dominated by corporate logos or images. Any shopfront fit outs to heritage buildings or to a property within a heritage conservation area will be referred to Council's Heritage Advisor. Removal of any original pre-1940s shopfront is not permitted prior to consultation and Council approval.

2.2 Lighting

- (a) Under awning lighting should be provided in accordance with the relevant Australian Standard.
- (b) Illumination is not to exceed a maximum horizontal luminance level of 200 lux (includes reflectivity of exterior finishes) as measured from the public domain. The intensity, colour, period of intermittency and hours of illumination of signage shall be varied if, at any time in the opinion of Council, an adverse impact is being caused to the amenity. Fluorescent lighting is discouraged.
- (c) Where residential development is located above retail or commercial premises or to the rear, details are to be provided which demonstrate that light is not directed toward the residents of the building. Illumination at rear of commercial properties or where installed for security purposes must be sensor controlled, except where public street frontage and/or footpaths require it.
- (d) Lighting, including ceiling lighting must be included in a development application (DA) for establishing and/or operating retail or commercial premises.

2.3 Hours of Operation

The maximum prescribed hours of operation held within this Part with respect to all commercial and retail uses throughout the Waverley LGA encompass all activities in association to the use i.e. pre-works, operation and clean-up etc. The prescribed hours of operation are within Table 1. The prescribed hours of operation are subject to all other aspects of the development being satisfactory.

Type – Premise	Zones	Hours of Operation	Table 1: Hours of Operation
Type A Premise <u>Business Zone</u> <u>(General)</u>	<ul style="list-style-type: none"> • B3 Commercial Core • 3(a) Business General 	(a) General maximum hours: 7.00am – midnight, 7 days a week; or (b) 1 year trial hours: (i) 7.00am to 2.00am, 7 days a week. Extended late night trading may be considered on trial basis; or (ii) Where residential uses are in close proximity: 7.00am to 1:00am, Thursday, Friday and Saturday only).	
Type A Premise <u>Business Zone</u> <u>(Mixed, Neighbourhood, Secondary and Low Intensity)</u>	<ul style="list-style-type: none"> • B4 Mixed Use • 3(b) Business Mixed • 3(c) Business Neighbourhood 	(a) General maximum hours: 7.00am – 11.00pm, 7 days a week; or (b) 1 year trial hours: (i) 7.00am to midnight, 7 days a week. Extended late night trading may be considered on a trial basis; or (ii) Where residential uses are in close proximity; 7.00 am to midnight, Thursday, Friday and Saturday only.	
Type A <u>Residential Zone</u>	<ul style="list-style-type: none"> • 2(a) Residential • 2(b) Residential • 2(c1) Residential • 2(c2) Residential • R3 Residential • R4 Residential 	(a) General maximum hours: 10.00am to 10.00pm, Monday to Saturday and 10.00am to 9.00pm Sunday; or (b) 1 year trial hours: 10.00am to midnight, Thursday, Friday and Saturday only.	
Type B <u>Business Zone</u> <u>(General)</u>	<ul style="list-style-type: none"> • B3 Commercial Core • 3(a) Business General 	(a) General maximum hours: 7.00am – midnight, 7 days a week; or (b) 1 year trial hours: (i) 7.00am to 1.00am, 7 days a week unless residential uses are in close proximity.	
Type B <u>Business Zone</u> <u>(Mixed, Neighbourhood, Secondary and Low Intensity)</u>	<ul style="list-style-type: none"> • B4 Mixed Use • 3(b) Business Mixed • 3(c) Business Neighbourhood 	(a) General maximum hours: 7.00am – 10.00pm, 7 days a week; or (b) 1 year trial hours: (i) 7.00am to midnight, 7 days a week. Extended late night trading may be considered on a trial basis; or (ii) Where residential uses are in close proximity; 7.00am to 11.00pm Thursday, Friday and Saturday only.	
Type B <u>Residential Zone</u>	<ul style="list-style-type: none"> • 2(a) Residential • 2(b) Residential 	(a) General maximum hours: 7.00am to 9.00pm 7 days a week; or	

	<ul style="list-style-type: none"> • 2(c1) Residential • 2(c2) Residential • R3 Residential • R4 Residential 	<p>(b) 1 year trial hours for extended trading hours; or</p> <p>(c) Where residential uses are in close proximity, Council may restrict trial hours accordingly; or</p> <p>(d) Provision may be made for restaurant and café uses to trade 1 hour beyond the general maximum hours on a permanent basis during (summer) day light saving hours only, to allow for a viable dinner service.</p>
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2.3.1 Brothels, Restricted Premises and other uses

Restricted premises and other sensitive uses are permitted as follows:

- (a) Standard hours: 8.00am –midnight, 7 days a week; or
- (b) 1 year trial hours: 8.00am – 2.00am, 7 days a week; or
- (c) Where residential uses are in close proximity, the consent authority may restrict trial hours to general business hours such as 9.00am to 6.00pm Monday to Friday or similar.

2.3.2 Bondi Beach Trading Hours

The following trading hours are recommended for Type A and Type B premises in the Bondi Beach locality (refer to Annexure E1-1):

- (a) Area A – 6.00am to 2.00am, Monday to Saturday and 9.00 am to 1.00 am Sunday.
- (b) Area B – 7.00am to midnight, 7 days a week.
- (c) Area C – 7.00am to 11.00pm, 7 days a week.

Where residential uses are in close proximity, more restrictive trading hours may be applied. An extension of the core hours will be considered on a trial basis only.

2.3.3 Bronte Beach Trading Hours

The maximum percentage of businesses in the centre allowed to trade to 10:00pm is 50%. All other businesses may be allowed to trade up to 8:00pm.

2.3.4 Extended Trading Hours and Review of Trial Periods

Applications for extended trading hours and review of trial periods are subject to public notification, referral to the Liquor Licensing Board and Council's Community Safety Committee for Type A premises. All applications will be referred to the local Police to determine whether or not there have been any complaints or incidents connected with the premise. If the premises have a place of public entertainment (POPE) licence an acoustic report must be submitted with the DA.

Council's assessment of the proposal will consider the following:

- (a) security and general management of the premises;
- (b) number and nature of substantiated complaints regarding the operation of the premises;
- (c) compliance with conditions of consent;
- (d) evidence that the applicant has taken a pro-active position in terms of industry best practice;

- (e) record of successful waste management on site and clean up and management of waste in adjacent public domain;
- (f) availability of transport for patrons including taxis, buses and carparking areas; and
- (g) any other matters considered relevant to the environmental evaluation of the premise.

If a premise fails the trial period (e.g. consistent and supported complaints), no further trial period shall be granted and the premise must revert to its pre-trial hours. If the premise trial period is successfully completed, a further trial period up to 5 years may be granted. Trading hours outside of standard hours will not be granted on a permanent basis.

2.3.5 Acoustic Report

Where a premise applies for an extension of trading hours or review of trial period is sought. Council may request an acoustic report be provided with the DA. The acoustic report must include:

- (a) identification of sensitive noise receivers potentially impacted by the proposal;
- (b) quantification of the existing acoustic environment at the receiver locations (measurement techniques and assessment period should be fully justified and in accordance with relevant Australian Standards and Department of Environment and Climate Change (DECC) requirements) and formation of a suitable assessment criteria having regard to the guidelines contained in the NSW EPA Industrial Noise Policy;
- (c) identification of operational noise producing facets of the proposal and the subsequent predictions of resultant noise at the identified sensitive receiver locations from the operation of the use. Where appropriate the prediction procedures must be justified and include an evaluation of prevailing atmospheric conditions that may promote noise propagation;
- (d) statement indicating how the proposal complies with the criteria together with details of proposed acoustic control measures will not create adverse noise impacts to surrounding development.

2.3.6 General

- (a) Where a DA is received for a refurbishment of existing licensed premises where its hours are not regulated by a condition of consent, a new condition of consent will be imposed in accordance with this Part to regulate hours of the premise.
- (b) Where a premise has electronic gaming machines, it will not be permitted to trade on a 24 hours basis, unless gaming services are closed for a minimum of 6 hours in any 24-hour period.
- (c) Council recognises that a number of retail uses may require longer trading hours, particularly earlier opening times. In these instances, an application to extend or modify trading hours will undergo an additional merit assessment.

2.4 Delivery Vehicles

Delivery and operation of loading docks shall be limited to the approved trading hours.

2.5 Amenity

2.5.1 General

- (a) All new retail, commercial and mixed developments shall incorporate within the building plant rooms and any associated facilities required for the future use of the premise (e.g. ducting, vents, air conditioners, refrigerator units, mechanical plant, etc). Plant rooms are to be acoustically treated.
- (b) Existing developments (for Type A and B premises) shall, where possible, incorporate plant rooms and any associated facilities required for the future use of the premises (e.g. ducting, vents, air conditioners, refrigerator units, mechanical plant, etc) into the building envelope. Where this can not be achieved in an existing development, plant room/utilities are to be designed to cause negligible impact to neighbouring properties and streetscape.
- (c) Food shop premises are to be designed and constructed in accordance with the provisions of the *Food Act 2003*, Food Safety Standards Code and relevant Australian Standards. No goods shall be placed on the footpath without Council consent.
- (d) Premises shall be designed so that customers cannot be served directly from Council's footpath (i.e. a bar or servery).
- (e) All new development shall be designed to include an internal ventilation shaft to ensure future alterations do not place the shaft in an unsuitable location.
- (f) Pet shops are prohibited to sell livestock.

2.5.2 Noise

- (a) Air conditioning units and cool-room equipment must be located in a plant room or acoustic enclosure to remove the potential for any associated noise escaping from the subject property.
- (b) Spruikers or amplified music or advertising are prohibited.
- (c) Noise emanating from a mechanical ventilation system shall be in accordance with the relevant Australian Standards.
- (d) The use of the premises shall not give rise to unacceptable vibration levels to adjoining/nearby properties and sound levels which exceed the recommended levels as outlined in DECC's "Noise Guide for Local Government".
- (e) All sound producing plant, equipment, machinery or fittings associated with or forming part of the mechanical ventilation system are required to operate in accordance with requirements of the *Protection of the Environment and Operations Act 1997* and relevant Australian Standard. Details of the proposed mechanical exhaust ventilation system within a food preparation area are to be submitted to and approved prior to the issue of a Construction Certificate.

2.6 Waste

- (a) Consistent with Part G1.
- (b) ATMs should be designed to be accessible and safe and where possible should be incorporated within a shop or bank premises.
- (c) ATMs should include adequate number and size of containers for paper rubbish. A schedule for cleaning should be included in the application for new ATMs.

2.6.1 Wastewater

- (a) Dry basket arrestors are to be provided to floor wastes in food preparation areas and be shown on plans submitted.
- (b) Premises shall have a floor waste point (drainage) to prevent polluted water from reaching the footpath.

2.7 Energy Efficiency and Water Conservation

The following energy efficiency and water conservation requirements apply to retail and commercial development:

- (a) Roofs and/or ceilings are to be insulated with a minimum R3.0 rating, roofs must contain sarking or foil backed blanket. New walls must be insulated to a minimum R1.5 rating.
- (b) Water fixtures (taps, showerheads, toilets etc) must have a minimum 3A water efficiency rating.
- (c) New and replacement installed electrical appliance must be rated no less than one star below the maximum available for that appliance type on the WELS water efficiency and/or Energy Star rating schemes at the time of installation.
- (d) New or replacement air conditioning units are to have a minimum 4-star rating for cooling only. Reverse cycle air conditioning units are to have a minimum of 4-star rating on one cycle and 3-star rating on the alternate cycle. Hot water systems must have a minimum 3.5-star Greenhouse rating.
- (e) Dehumidification from air conditioning systems must be harvested and reused on site provided it is treated to an adequate level suitable for the reuse application, otherwise a piped connection to Council's stormwater drainage system is required and there is to be no discharge to the footpath.
- (f) All new development shall be designed to include an internal ventilation shaft ensure future alterations do not place the shaft in an unsuitable location.
- (g) Electric storage water heaters covered by the Minimum Energy Performance Standards (MEPS) rating system should exceed the minimum standard by at least 10%.
- (h) Lighting technologies i.e. sensors, timing switches, dimmers, two way lighting, diffused light, use of high efficiency lamps are encouraged. Traditional incandescent lamps are discouraged.
- (i) New gas heaters must be rated no less than one energy star below the maximum available at the time of installation.
- (j) New development must not reduce the solar access of solar collectors of an adjoining property to less than two hours per day in mid-winter except where solar hot water / photovoltaic panels must maintain full solar access.

2.8 Community Crime Prevention Controls

Crime Prevention through Environmental Design (CPTED) seeks to encourage the design and management of development to reduce the opportunity for crime. Refer to Section 6.0 of Part D2 for Controls.

2.9 Accessibility

The aims of this section to ensure that all new and refurbished buildings provide access for people with disabilities as required by the Federal Government's *Disability Discrimination Act 1992* (DDA 1992).

This section seeks to promote recognition and acceptance within the community of the principle that persons with disability have the same rights of access as the rest of the community. The EP&AA 1979 requires consideration be given to whether adequate provision for access by people with disabilities has been made pursuant a development application.

2.9.1 All Development

- (a) An accessible path of travel from the street to and through the front door, where the level of land permits.

2.9.2 New Mixed Use Developments

- (a) An accessible path of travel from the street to and through the front door of premises on the ground floor, where the level of the land permits. If the development has three or more residential storeys, with 10 or more units, an accessible path of travel from the street to all units, on each floor is required.
- (b) Three or more habitable storeys and 10 or more units, a percentage of units shall comply with the provisions of a Class A adaptable unit specified accordance with the Australian Standards (AS), as follows:
 - Up to 9 units, the provision does not apply
 - 10 – 15 units, 1 adaptable unit
 - 16 – 20 units, 2 adaptable units
 - 21 – 30 units, 3 adaptable units (10% of units thereafter)

2.9.3 New buildings

- (a) A lift must be provided at ground to upper floors in developments with two or more storeys and where aggregate floor area above ground storey is 400m² or greater.

2.9.4 Existing building/change of use or alterations

- (b) Where structural alterations, major refurbishment or significant change of use affecting a substantial proportion of the gross floor area of the premises are proposed, all applicable provisions of this Part must be complied with. Where a minor refurbishment to an existing building is proposed, the alterations must not reduce the accessibility of the building.

**Annexure E1-1
Bondi Beach Trading Hours Map**

