

3.02 Single Dwellings and Ancillary Development

Amendment history

Version Number	Date Adopted by Council	Commencement Date	Amendment Type
1	15/11/2011	15/06/2012	New
2	17/07/2012	30/07/2012	Amended
3	28/10/2014	10/11/2014	Amended
4	26/04/2016	09/05/2016	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 within which single dwellings are permissible with consent under Newcastle Local Environmental Plan 2012.

Development (type/s) to which this section applies

This section applies to all development consisting of single dwellings, alterations and additions and ancillary structures.

Note: Dwelling is defined in the Newcastle Local Environmental Plan 2012:

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

A single dwelling is distinctively different to a dual occupancy which involves two dwellings.

Applicable legislation and environmental planning instruments

Under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, Council is required to take into consideration the relevant provisions of any applicable Development Control Plan when determining an application for development.

Note: Section 4.15 of the *Environmental Planning and Assessment Act 1979* contains other matters that must be considered in determining a development application and accordingly compliance with the provisions of this DCP does not guarantee that development consent will be granted.

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 (Building Sustainability Index: BASIX) 2004.

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: 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:

- 7.03 Traffic, Parking and Access
- 7.05 Energy Efficiency
- 7.06 Stormwater
- 7.07 Water Efficiency
- 7.08 Waste Management.

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 bushfire area/zone
- 4.03 Mine Subsidence – within mine subsidence area
- 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
- 6.01 Newcastle City Centre - if proposed development is located in this precinct
- 6.02 Heritage Conservation Areas - known conservation area
- 6.03 Wickham - if proposed development is located in this precinct
- 6.12 Minmi - if proposed development is located in this precinct.

Associated technical manual/s

- Nil

Additional information

The format of the DCP is set up in such a way that each of the controls has an acceptable solution and performance criteria.

Acceptable Solutions

The acceptable solutions provide a certain outcome of achieving compliance with Council controls for this section. To achieve the acceptable solution the applicant must demonstrate that they have satisfied the required control/s within each section. Any variation from the acceptable solution will mean the application will be required to meet the performance criteria for that section and the application will become a performance based assessment.

Performance Criteria

The performance criteria permit applicants to be flexible and innovative in responding to the DCP requirements. Applications which meet the performance criteria are assessed on merit and it is the applicant's responsibility to demonstrate how the performance criteria have been met. Compliance with the performance criteria can be undertaken through the use of 3D montages, 3D models, constraints mapping and other forms of visual representation.

Note: Development application forms, checklists and other explanatory information are available on Council's website to assist with the use of this section of the Development Control Plan.

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.

Words and expressions referred to in this section are defined within Section 9.00 - Glossary of this plan, and include:

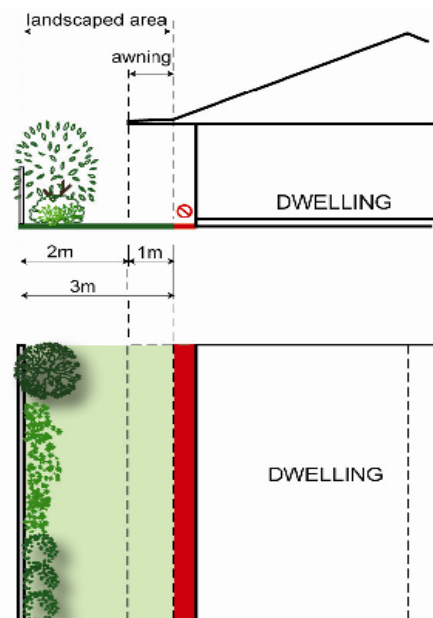
- **Building envelope** - the three dimensional space that limits the extent of a building on an allotment. The building envelope is defined by *building height* and front, side and rear boundary *setbacks*. Refer to definitions for *building height* and *setback* for inclusions and exclusions.
- **Building 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 degrees 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 part of the site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

Note: For the purpose of this DCP the Landscape Area is to be open to the sky¹ and does not include any building, structure or hard paved area. The landscaped area should be designed in such a way that is free of conflicts with infrastructure, services and drainage pipes.

Under this DCP paving wider than 1m, impervious or otherwise, will not be considered as landscaping. Structures include, but are not limited to, such features as air conditioning systems, awnings, cubby houses, decks, fixed clotheslines, garden sheds, hot water systems, LPG storage tanks, patios, swimming pools, tennis courts, verandahs, water tanks (eg. rainwater) and the like.

¹ The first metre (ie 1m) of a landscape area which falls under an awning, overhang, under croft (or similar) may be included within the landscape area calculations where it forms part of continuous landscape area 3m wide or greater, with the remaining larger portion being open to the sky and the development is supported by a comprehensive landscape plan (ie '2m plus 1m') (see following figure - Landscape area and awnings).

Landscape area and awnings.



- **Living area** - of a dwelling includes habitable rooms frequently used for general recreation, entertainment and dining and includes living rooms, dining, family, lounge, rumpus room and the like but excludes non-habitable rooms, bedrooms, study, kitchen and other areas that are less frequently used.
- **Natural light** – daylight received into a building
- **Principal area of private open space for single dwellings** – a 3m x 4m level area of private open space directly accessible from the main living area of the dwelling.
- **Secondary dwelling** - a self-contained dwelling that:
 - (a) is established in conjunction with another dwelling (the **principal dwelling**), and
 - (b) is on the same lot of land as the principal dwelling, and
 - (c) is located within, or is attached to, or is separate from, the principal dwelling.
- **Sunlight** – direct sunlight onto the ground or into a building.

Objectives of this section

1. Encourage development that complements and enhances the built environment and the existing amenity.
2. Ensure efficient use of land for residential purposes.
3. Encourage innovation and diversification in site layout and building design.
4. Ensure dwellings are generally compatible with the scale and bulk of desired residential development character.
5. Ensure dwellings provide their occupants with adequate levels of comfort, security and amenity.
6. Ensure new development is designed to take advantage of the positive attributes of the site; including, slope, aspect, trees, gardens and existing buildings.
7. Ensure landscaping is in scale with the building and complements features on the site and adjoining land.
8. Retain significant existing landscaping where possible.
9. Ensure adequate solar access for dwellings.

3.02.01 Density - floor space ratio

Performance criteria

No performance criteria.

Note 1: Any variations to the controls set by the LEP are subject to clause 4.6 *Exceptions to development standards*.

Note 2: Development density within areas for which the LEP does not provide FSR maps is assessed on merit:

- Development within heritage conservation areas will be required to supply a Heritage Impact Assessment as part of the application to justify the proposed floor space ratio.

Acceptable solutions

1. Development complies with Newcastle Local Environmental Plan 2012 floor space ratio controls.

3.02.02 Height of buildings

Performance criteria

No performance criteria

Note 1: Any variations to the controls set by the LEP are subject to clause 4.6 - Exceptions to development standards.

Note 2: Development height within areas for which the LEP does not provide height of buildings maps is assessed on merit having regards to building heights in the vicinity:

- Development within heritage conservation areas will be required to supply a Heritage Impact Assessment as part of the application to justify the proposed heights.

Acceptable solutions

1. Development complies with the Newcastle Local Environmental Plan 2012 building height controls.

3.02.03 Street frontage appearance

Performance criteria

1. Development complements and harmonises with the positive elements of existing development in the street.
2. Setbacks are compatible with the existing or intended local streetscape.
3. Garages and carports are integrated into a development and do not dominate the streetscape.
4. Development provides passive surveillance of the street.
5. Dwellings address the street.

Acceptable solutions

1. In established residential zones the proposed building is to be set back the average distance of buildings within 40m either side of the lot on the same primary road see **Figure 1**.

Note 1: Ancillary development and building elements within the permitted articulation zone are not included in the setback calculation. See **Figure 3** and refer to acceptable solution 4 for further details.

Note 2: Where established residential setbacks are inconsistent, setbacks are to be determined by assessing the setbacks against the performance criteria.

Figure 1: Front setbacks consistent with neighbouring dwellings 40m either side



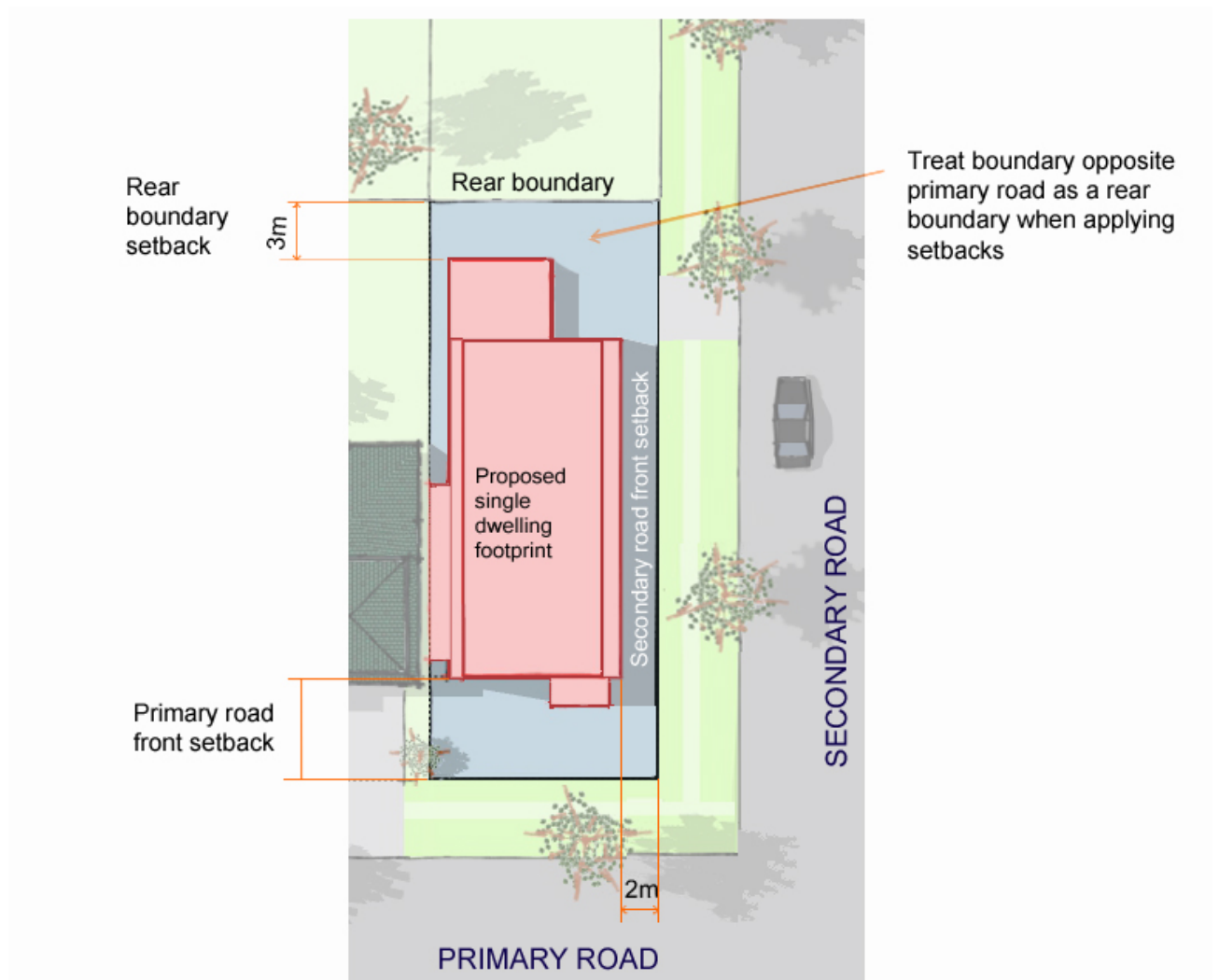
2. If there is no established setback the minimum front setback (building line) to a road is:

Table 1: Minimum front setbacks

Road type	Lots with an area of less than 300m ² minimum setback	Lots with an area 300m ² or more minimum setback
Primary Road	3m	4.5m
Corner lot (secondary road)*	2m	2m
Parallel road (eg laneway)	3m to principal dwelling	3m to principal dwelling
Classified road	As defined in any applicable Environmental Planning Instrument or if none exists 9m.	As defined in any applicable Environmental Planning Instrument or if none exists 9m.

* Refer Figure 2 - setbacks from primary and secondary roads.

Figure 2 - Setbacks from primary and secondary roads



- Garages - Notwithstanding controls 1 and 2, the minimum setback for garages is 1m behind the building line or 5.5m from the property boundary of the road frontage, whichever is the greater.

Note: The front setback is predominantly landscaped however, on merit assessment, part of the setback area may be utilised for carports, depending upon compatibility with the streetscape. Car parking spaces must be contained within the allotment boundaries.

- A dwelling house, other than a dwelling house that has a setback from a primary road of less than 3m, may incorporate an articulation zone that extends from the building line to a distance of 1.5m into the required setback from the primary road. See **Figure 3** and **Figure 4**.

Note 1: Articulation zone means an area within a lot where building elements are or may be located, that consists of that part of the setback area from a primary road that is measured horizontally for a distance of 1.5m from:

- the required front setback (building line), or
- a gable or roof parapet having a surface area of more than 10m².

The following building elements are permitted in an articulation zone:

- (a) an entry feature or portico,
- (b) a balcony, deck, patio, pergola, terrace or verandah,
- (c) a window box treatment,
- (d) a bay window or similar feature,
- (e) an awning or other feature over a window,
- (f) a sun shading feature.

Note 2: Ancillary development and building elements within the permitted articulation zone are not included in the setback calculation.

- 5. The articulation zone is to be a maximum 25% of the width of the lot at the building line. See **Figure 3**.
- 6. Dwellings have a front door and a window of a habitable room facing the primary road.
- 7. A new dwelling house on a corner lot must have a window to a habitable room that is at least 1m² in area and that faces and is visible from a secondary road.
- 8. The maximum width of a garage or carport opening which faces the street is 6m in respect of each dwelling, or 50% of the frontage, whichever is less.

Figure 3: Aerial view of building articulation zone

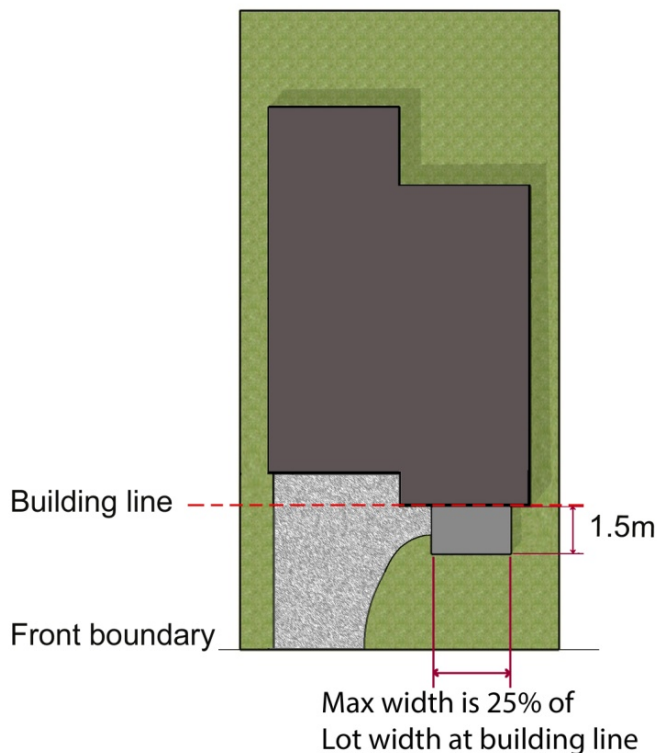
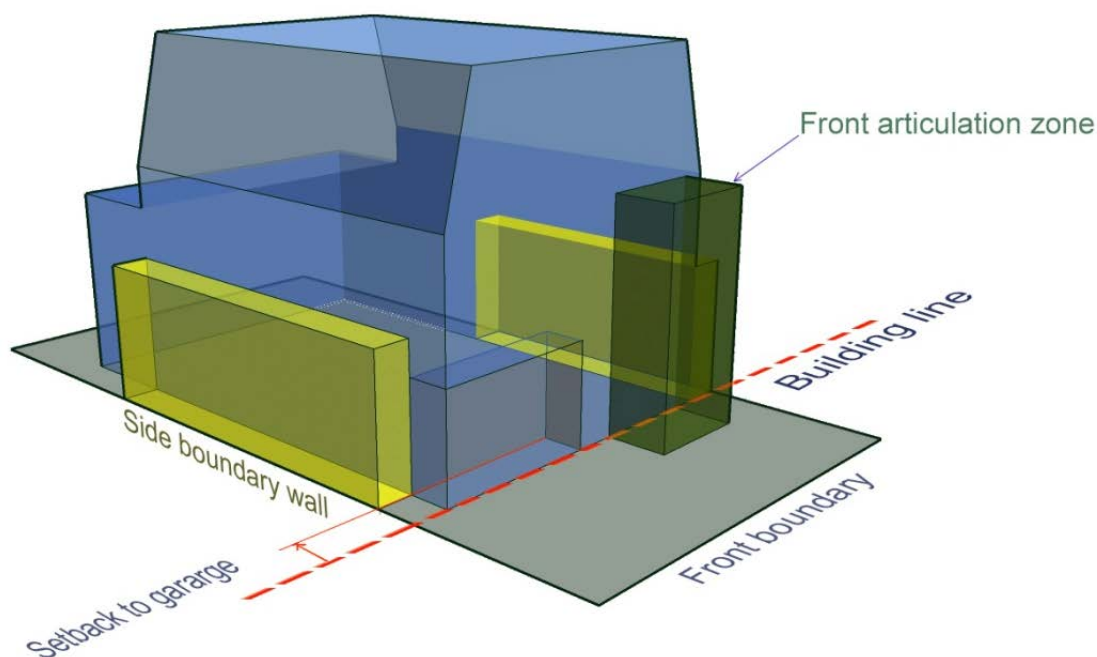


Figure 4: Building articulation zone - envelope



3.02.04 Side/rear setbacks (building envelope)

Performance criteria

1. Development is of a bulk and scale that:
 - (a) is consistent with and complements the built form prevailing in the street and local area;
 - (b) does not create overbearing development for adjoining dwelling houses and their private open space;
 - (c) does not impact on the amenity and privacy of residents in adjoining dwelling houses;
 - (d) does not result in the loss of significant views or outlook of adjoining residents;
 - (e) provides for natural light, sunlight and breezes.

Acceptable solutions

Small lots with a width measured at the building line of less than 10.5m

1. The building is contained in the building envelope defined by:
 - (i) 900mm set back from each boundary up to a height of 5.5m then in at an angle of 4:1 up to the maximum height which is specified in the Newcastle Local Environmental Plan 2012

- (ii) buildings on lots with a width less than 8m can be built to both side boundaries
- (iii) buildings on lots with a width of 8m-10.5m can build to one side boundary only.

See **Figure 5**.

2. Where boundary walls are used each boundary wall is:

- (a) to be a maximum height of 3.3m or match an existing adjoining wall (whichever is greater)
- (b) to have a maximum length of 20m or 50% of the lot depth (whichever is the lesser)
- (c) be in accordance with the Building Code of Australia, maintenance free and attractive finish (eg face brick).

See **Figure 5**.

3. Notwithstanding controls 1 and 2, buildings are not to be built to the boundary if:

- (a) the wall of the building on the adjoining lot is not of masonry construction and is within 900mm of the boundary, or
- (b) the wall of the building on the adjoining lot has a window facing the boundary within 900mm of the boundary.

4. The setback to the rear boundary is to be at least the following:

- (a) any part of the building up to 4.5m in height – a 3m setback
- (b) any part of the building with a height greater than 4.5m either:
 - i) if there are 2 adjoining dwellings with a height over 4.5m either a 6m setback or the average distance of those parts of the building over 4.5m, whichever is the lesser
 - ii) if there are no adjoining dwellings over 4.5m in height - a 6m setback (see **Figure 6**)
- (c) On corner lots the boundary opposite the primary road frontage is taken to be the rear boundary for the purposes of applying setbacks. See **Figure 2**.
- (d) Exceptions to rear setbacks for ancillary structures are outlined under Section 3.02.12, Table 2.

Note: Side and rear setbacks do not apply to:

- (a) any aerial, antenna, awning, eave, flue, chimney, pipe, cooling or heating appliance, any rainwater tank less than 1.8m in height or any other structure associated with the provision of a utility service, if it is located at least 450mm from the relevant boundary, and
- (b) any fence, fascia, gutter, downpipe, light fitting, electricity or gas meter, driveway, hard stand space, pathway or paving, if it is located within the required setback area to the relevant boundary.

Figure 5: The following building envelope applies to lots with a width measured at the building line of less than 10.5m

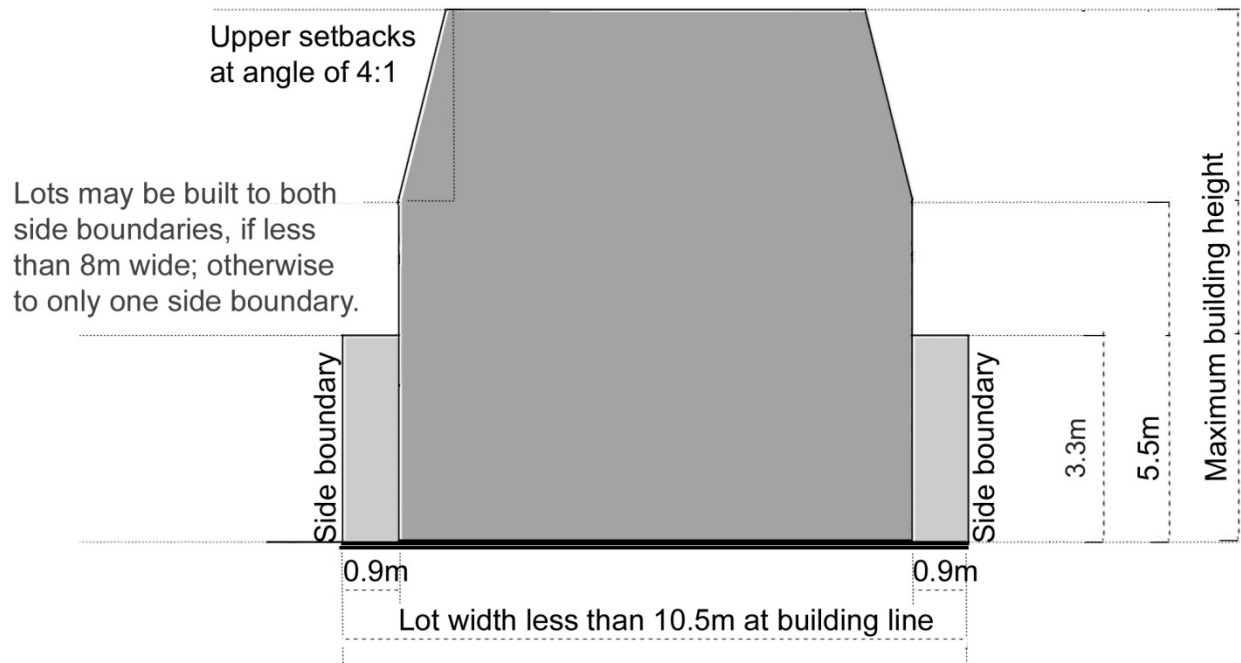
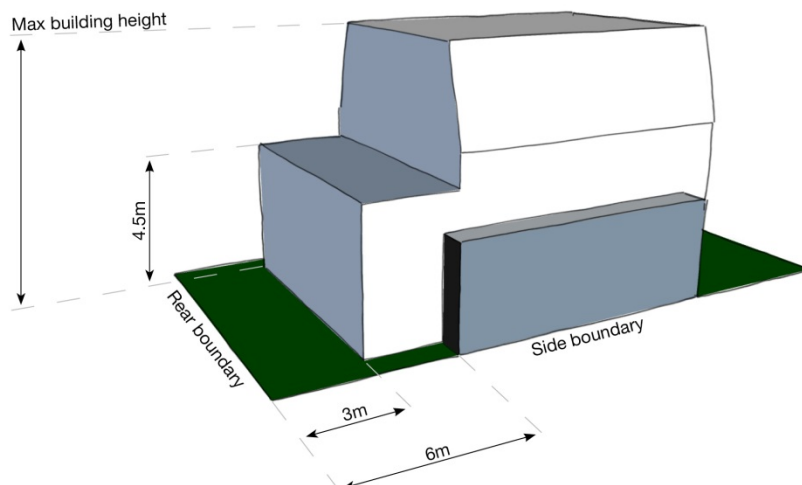


Figure 6: The rear setback with no adjoining dwellings over 4.5m in height



Lots with a lot width measured at the building line of 10.5m or greater

1. The building is contained in the building envelope defined by:
 - (a) 900mm setback from each boundary up to a height of 4.5m then in at an angle of 4:1 up to the maximum height which is specified in the Newcastle Local Environmental Plan 2012
 - (b) lots with a width of 10.5m to 12.5m can be built to one side boundary only.
 - (c) lots over 12.5m are not built to side boundaries.

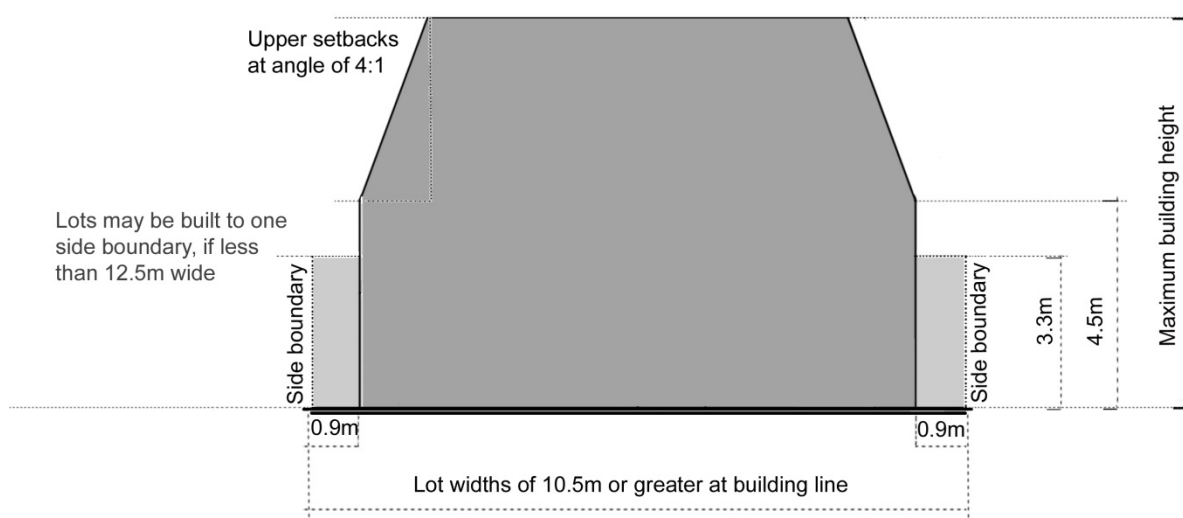
See **Figure 7**.

2. Where boundary walls are proposed each boundary wall is:
 - (a) to be a maximum height of 3.3m or match an existing adjoining wall (whichever is greater)
 - (b) to have a maximum length of 20m or 50% of the lot depth (whichever is the lesser)
 - (c) be in accordance with the Building Code of Australia, maintenance free and attractive finish (eg face brick).

See **Figure 7**.

3. Notwithstanding controls 1 and 2, buildings are not built to the boundary if:
 - (a) the wall of the building on the adjoining lot is not of masonry construction and is within 900mm of the boundary, or
 - (b) the wall of the building on the adjoining lot has a window facing the boundary within 900mm of the boundary.

Figure 7: The following building envelope applies to lots with a width measured at the building line of 10.5m or greater



4. The setback to the rear boundary is to be at least the following:
 - (a) for any part of the building up to 4.5m in height – a 3m setback.
 - (b) any part of the building with a height greater than 4.5m either:
 - i) if there are 2 adjoining dwellings with a height over 4.5m either a 6m setback or the average distance of those parts of the building over 4.5m, whichever is the lesser
 - ii) if there are no adjoining dwellings over 4.5m in height - a 6m setback (see **Figure 6**)
 - (c) On corner lots the boundary opposite the primary road frontage is taken to be the rear boundary for the purposes of applying setbacks. See **Figure 2**.
 - (d) Exceptions to rear setbacks for ancillary structures are outlined under Section 3.02.12, Table 2.

Note: side and rear setbacks do not apply to:

- (a) any aerial, antenna, awning, eave, flue, chimney, pipe, cooling or heating appliance, any rainwater tank less than 1.8m in height or any other structure associated with the provision of a utility service, if it is located at least 450mm from the relevant boundary, and
- (b) any fence, fascia, gutter, downpipe, light fitting, electricity or gas meter, driveway, hard stand space, pathway or paving, if it is located within the required setback area to the relevant boundary.

3.02.05 Landscaped area

Performance criteria

1. Improve the amenity of developments and neighbourhoods through the retention and/or planting of large and medium size trees.
2. Landscaped areas are of a usable size and proportion.

Acceptable solutions

1. Development has a minimum landscaped area of:
 - (a) if the lot has an area of less than 300m² - 10% of the area of the lot,
 - (b) if the lot has an area of more than 300m² but less than 450m² - 15% of the area of the lot,
 - (c) if the lot has an area of more than 450m² but less than 600m² - 20% of the area of the lot,
 - (d) if the lot has an area of more than 600m² - 30% of the area of the lot.

Note: Landscaped area can include any private open space area in excess of the principal area of private open space (as required under Section 3.02.06), provided it satisfies other landscape requirements under the DCP.

2. Landscaped areas have a minimum dimension of 1.5m.
3. A minimum 1.5m wide strip of landscaping is located along at least one boundary.
4. Dwellings have a setback of at least 3m from the base of the trunk of each protected tree.

3.02.06 Private open space

Performance criteria

1. Dwellings are provided with adequate private open space which is usable and meets the needs of the occupants.

Acceptable solutions

1. Lots have a principal area of private open space* in addition to landscaping required under 3.02.05.
****Principal area of private open space – a 3m x 4m level area of private open space directly accessible from the main living area of the dwelling.***
2. The principal area of private open space is a logical extension of the dwelling with good solar access and suitable for use for relaxation, dining, entertainment, recreation or children's play.
3. The principal area of private open space is not located within the front setback to the primary road.

Note 1: The principal area of private open space can be covered. If the principal area of private open space is enclosed on all sides with walls greater than 1.4m it will not be considered as private open space but form part of the gross floor area.

Note 2: Areas used for driveways, car parking, drying yards and service areas are not to be included when calculating principal area of private open space.

3.02.07 Privacy

Performance criteria

1. Dwellings have adequate privacy to the principal area of private open space and the windows of habitable rooms.
2. Dwellings do not unreasonably overlook living room windows or the principal area of private open space of neighbouring dwellings.

Acceptable solutions

Note: Designers should consider the following measures to alleviate direct view impacts:

- i) proper consideration of privacy outcomes at the site planning stage
- ii) screening, including lattice
- iii) off set windows
- iv) innovative balcony design
- v) separation by distance
- vi) the slope of the site and adjoining land.
- vii) highlight window

Sloping sites may raise particular privacy issues and these should be addressed through design.

1. 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 the ground floor.
2. Direct views between living area windows of adjacent dwellings are screened or obscured where:
 - (a) ground 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'. See **Figure 8**.
 - (b) windows above ground floor are within a privacy sensitive zone described by a 12m radius. See **Figure 8**.
3. Direct views from living rooms 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. See **Figure 9**.
4. Direct views from the principal area of private open space of dwellings into the living area windows and/or principal area of private open space of adjacent dwellings are screened or obscured within a privacy sensitive zone described by a 12m radius. See **Figure 9**.

Note: Privacy is maintained to the principal area of private open space of adjoining properties but cannot be ensured to other general open space areas, including pools.

Figure 8: A privacy sensitive zone for a single dwelling.



Figure 9: Potential privacy impacts that would require screening.



5. Direct views described in controls 2 and 3 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 to a height of at least 1.7m but not more than 2.2m, above the finished floor level of the balcony, deck, verandah, etc., that has a maximum area of 25% openings, is permanently fixed and is made of durable materials
 - (c) Highlight windows with a minimum sill height of 1.5m above finished floor level.

Note: Elevated ground floor level may require higher fencing to maintain privacy.

3.02.08 Solar access

Performance criteria

1. Development does not significantly overshadow living area windows and principal areas of private open space of adjacent dwellings.

Acceptable solutions

1. Maintain at least three hours of sunlight to the windows of living areas that face north in existing adjacent dwellings between 9am and 3pm on 21 June. See **Figure 10** for northerly aspect windows.
2. The principal area of private open space of adjacent dwellings receives at least two hours of sunlight between 9am and 3pm on 21 June.
3. Sunlight to any existing solar panels is not reduced to less than three hours between 9am and 3pm on 21 June.

Note 1: Plans and details are to be supplied that graphically indicate how the above requirements have been achieved. Shadow diagrams in plan and elevation, including window locations may be required.

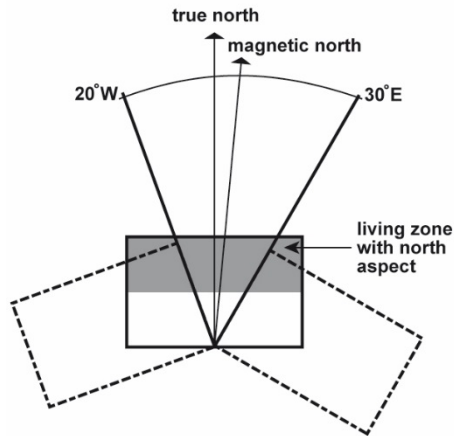
Note 2: Windows of living areas facing north are taken to be within 20° west and 30° east of true north. See **Figure 11**.

Note 3: Solar access may not be able to be maintained fully as per the acceptable solution to all north facing living area windows if there is more than one living area within the adjacent dwelling with north facing windows. Such cases are assessed against the performance criteria, on their merits, with particular regard to the windows of a main living area adjoining the principal area of private open space.

Note 4: Solar access is maintained to the principal area of private open space of adjoining properties but cannot be ensured to other general open space areas, including pools.

Note 5: Where existing overshadowing by buildings and fences of the principal area of private open space of adjoining properties does not satisfy the acceptable solution then it must be demonstrated that the existing sunlight is not unreasonably reduced, when addressing the performance criteria.

Figure 10: Northern aspect windows



3.02.09 View sharing

Performance criteria

1. Development is designed to allow view sharing with neighbouring properties.
2. Design plans identify existing views and demonstrate how view sharing is achieved.
3. Important public views and vistas are to be enhanced by the form and treatment of buildings including roof scapes.

Acceptable solutions

1. The building height does not exceed 5m or if the building is over 5m adjoining properties do not have views or vistas to water, city skyline and iconic views obscured by the proposed development.

Note: Merit based proposals (that do not meet acceptable solutions) must address the performance criteria having regards to the planning principle for view sharing established by the NSW Land and Environment Court (Tenacity Consulting Vs Warringah Council (2004)).

3.02.10 Car parking and vehicular access

Performance criteria

1. Vehicles can enter and exit the site in a safe manner.
2. Vehicle access and car parking structures do not dominate the streetscape.

Acceptable solutions

1. Vehicular access and car parking areas comply with the provisions of AS2890 Parking facilities and Council's Standard Drawing.

Note 1: Councils standard drawings can be accessed on Councils website www.newcastle.nsw.gov.au

Note 2: Applications are supported by driveway section diagrams to demonstrate compliance. Swept turning path diagrams may also be required for difficult to access sites.

2. The off street car parking space for a battle-axe lot are constructed in a way that allows vehicles to leave the lot in a forward direction.
3. Driveways are set back 0.6m from side boundaries. The driveway itself is at least 2.5m wide, with adequate turning area provided to allow ease of access to garages.
4. One driveway crossing is permitted for allotments of land. The maximum width of the driveway crossing shall not exceed 4.5m.

Note 1: Landscaping, mailboxes, fences and other structures when located near driveway crossings, must not compromise safety aspects, such as sight distances, to both pedestrians and other vehicles. Refer to AS2890.

Note 2: Refer to AS2890 Parking Facilities for requirements and recommendations for location of driveways to corners / intersections and other structures.

Note 3: Car parking rates are to be in accordance with Section 7.03 Traffic, Parking and Access of this DCP. This section states that for a dwelling house parking is required at a rate of 1 space per dwelling <125m² and 2 space per dwelling >125m².

3.02.11 Development within Heritage Conservation Areas

Performance criteria

1. Development Applications within a Heritage Conservation area must be supported by a Heritage Impact Statement (HIS) or a Conservation Management Plan (CMP). These documents are to ensure the development has minimal adverse impact on the conservation area and meet the requirements of Section 5.05 Heritage Item and Section 6.02 Heritage Conservation area of the Newcastle Development Control Plan 2012.

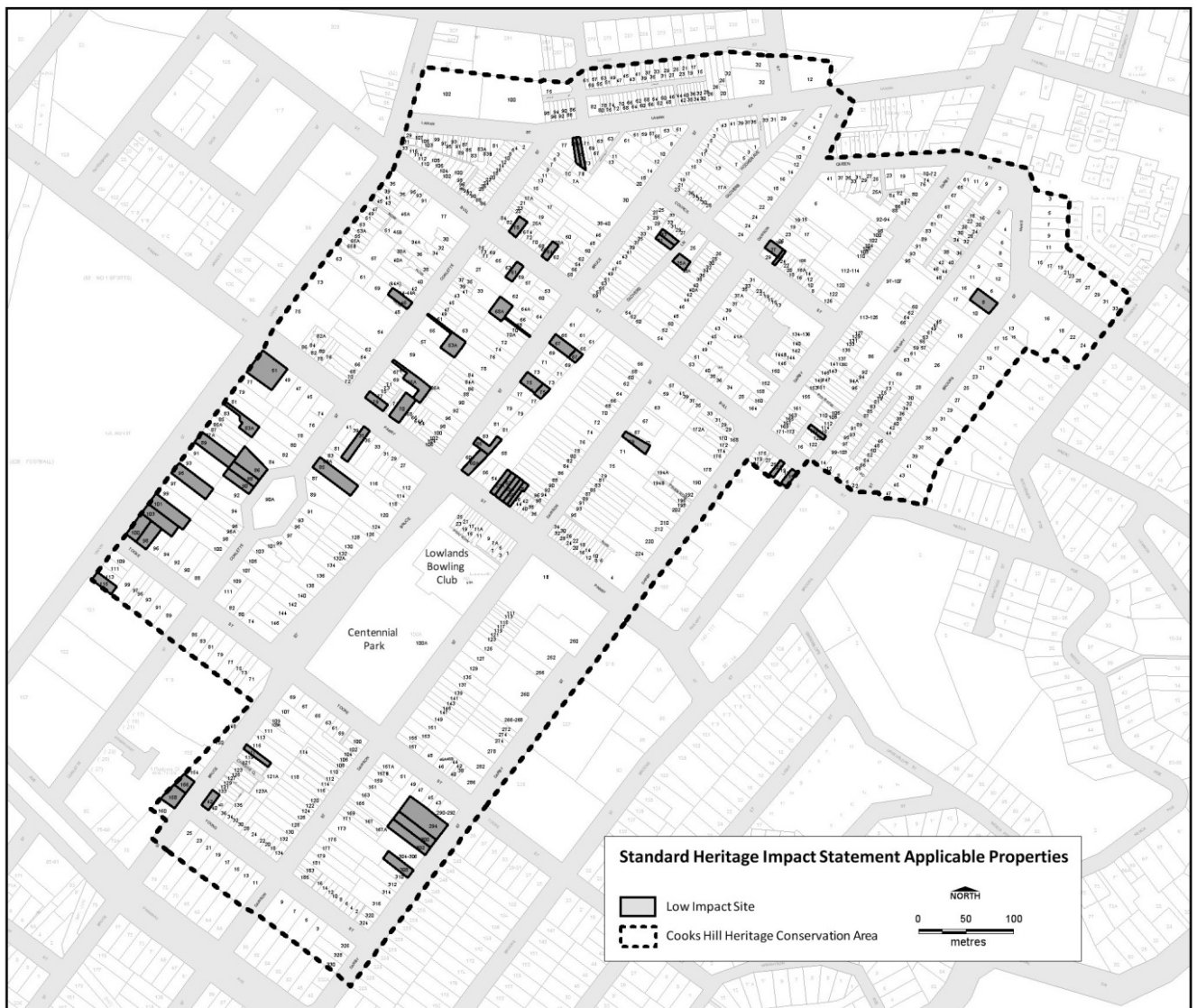
Note: Heritage impact statements must be prepared by a suitably qualified and experienced heritage consultant and reference sections 5.05 Heritage Item and 6.02 Heritage Conservation Areas of the Newcastle Development Control Plan 2012.

Acceptable solutions

1. The site is identified as a "low impact site" in **Figure 11**, and a Standard Heritage Impact Statement with an acceptable outcome has been submitted with the application.

Note: The Standard Heritage Impact Statement should be prepared in accordance with the guidelines provided in Section 6.02 Heritage Conservation Areas of the Newcastle Development Control Plan 2012, the Heritage Technical Manual and the State Heritage Inventory listing for the heritage conservation area. www.environment.nsw.gov.au/heritageapp/heritagesearch.aspx

Figure 11: 'Low impact sites' in the Cooks Hill Heritage Conservation area.



3.02.12 Ancillary development

1. All ancillary development shown in **Table 2** and any associated excavation must have a setback of at least 3m from the base of the trunk of each protected tree on the lot. However, the following development;
 - (a) an access ramp
 - (b) a driveway, pathway, or paving
 - (c) an awning, blind or canopy
 - (d) a fence, screen, or child resistant barrier associated with a swimming pool or spa
 is permitted within the setback if they do not require a cut and fill of more than 150mm.

Note: Ancillary development must also satisfy other applicable sections of the DCP.

Table 2: Ancillary development

Development type	Performance criteria	Acceptable solutions
Carports and Garages	<ol style="list-style-type: none"> 1. Structures and vehicular access do not dominate the streetscape. 2. Structures are compatible with the scale and bulk of desired residential development character. 3. Vehicles can enter and exit the site in a safe manner. 	<ol style="list-style-type: none"> 1. The carport or garage has a maximum floor area of 40m². 2. The carport or garage has a maximum height of 4.5m above existing ground level. 3. Complies with acceptable solutions under Section 3.02.10 Car parking and vehicular access. 4. The minimum front setback is 1m behind the building line or 5.5m from the property boundary of the road frontage, whichever is the greater. 5. Side/rear setbacks: <ol style="list-style-type: none"> a) The setback from side boundaries complies with the acceptable solutions under Section 3.02.04. b) The minimum setback to the rear boundary is 900mm. <p>Note: Allowable encroachments outlined under Section 3.02.04 continue to apply.</p> 6. A carport has two or more sides open and not less than one-third of its perimeter open. 7. A carport or garage on a laneway is setback a minimum 7m from the boundary on the opposite side of the laneway.

Development type	Performance criteria	Acceptable solutions
Detached Studios	<ol style="list-style-type: none"> 1. The detached studio complements and harmonises with the principal dwelling on the site and the positive elements of the streetscape. 2. The detached studio is compatible with the scale and bulk of desired residential development character. 3. Ensure adequate amenity for the principal dwelling. 4. Ensure adequate amenity for surrounding properties. 	<ol style="list-style-type: none"> 1. The development complies with all acceptable solutions under this Section 3.02 (as for the principal dwelling), other than: <ol style="list-style-type: none"> a) Floor space - in addition to any floor space ratio controls (as per section 3.02.01 Density), the total floor area of the detached studio must not exceed: <ul style="list-style-type: none"> • If lot area is not more than 350m² - 20m². • If lot area is more than 350m² - 35m². b) Height - the detached studio has a maximum height of 4.5m above existing ground level. c) Street frontage appearance - if the detached studio addresses a road frontage then the studio must have a window of a habitable room that is at least 1m² in area facing the road. d) Side/rear setbacks: <ol style="list-style-type: none"> i) The setback from side boundaries complies with the acceptable solutions under Section 3.02.04. ii) The minimum setback to the rear boundary is 900mm. <p>Note: Allowable encroachments outlined under Section 3.02.04 continue to apply.</p> e) Private open space - the detached studio must maintain a principle area of private open space* for the principal dwelling. <p><i>*Principal area of private open space – a 3m x 4m level area of private open space directly accessible from the main living area of the dwelling.</i></p>

Development type	Performance criteria	Acceptable solutions
Fences	<ol style="list-style-type: none"> 1. Front fences and walls complement and harmonise with the streetscape. 2. Front fences and walls allow for outlook from dwellings to the street for safety and surveillance. 3. Higher front fences and walls only occur where necessary to minimise amenity impacts. 4. Front fences allow safe vehicular access to the site and adjoining lots. 	<ol style="list-style-type: none"> 1. Front fences and walls have a maximum height of 1.2m (unless development meets clause 8 or 9). 2. Front fences and walls highlight the entrance to the dwelling. 3. Front fences and walls are constructed of materials compatible with the dwelling, and with attractive visible examples of fences and walls in the streetscape. 4. Front fences and walls are compatible with facilities in the street frontage area, such as mail boxes and garbage collection areas 5. Fencing and walls located on bush fire prone land are constructed of non-combustible materials. 6. Fencing and walls do not incorporate barbed wire in its construction or be electrified. 7. The use of sheet-metal fencing is avoided along the front boundary. 8. Front fence or wall height may be increased to 1.8m if: <ol style="list-style-type: none"> a) the development site is not located in a Heritage Conservation Area; and b) the development fronts onto an arterial road and it is demonstrated that traffic volumes will have a negative impact on amenity of residents; and c) the visual impact of the fence to the street is softened through landscaping and design; and d) Fence height, landscaping and any other obstruction to visibility is limited to 1.2m in height in the 2m by 2.5m splay within the property boundary for each side of the boundary and any driveway entrance in accordance with AS/NZ 2890.1:2004 – Parking facilities – Off street car parking. See Figure 12. <p>OR</p>

Development type	Performance criteria	Acceptable solutions
		<p>9. The front fence or wall height may be increased to 1.8m if:</p> <ul style="list-style-type: none"> a) the existing principal area of private open space is in the front of the dwelling; and b) the entire fence or wall has openings which make it not less than 30% transparent (see Figure 13); and c) the visual impact of the fence or wall to the street is softened through landscaping and design (see Figure 13); and d) the fence is not on the northern side of the principal area of private open space and will not cause excessive overshadowing; and e) the fence or wall height, landscaping and any other obstruction to visibility is limited to 1.2m in height in the 2m by 2.5m splay within the property boundary for each side of the boundary and any driveway entrance in accordance with AS/NZ 2890. See Figure 13. <p>Note: A transparent fence can be seen through from most viewing angles. A 30% transparent fence must have openings which make the entire fence not less than 30% transparent. Examples of fencing types that could satisfy this requirement are: a solid and transparent vertical or horizontal timber slat fence, masonry pillars with infill pickets spaced to provide 30% transparency, masonry low wall with horizontal infill slats above spaced to provide 30% transparency. See Figure 13.</p> <p>10. If it is on a sloping site and stepped to accommodate the fall in the land—be no higher than 2.2m above ground level (existing) at each step.</p> <p>11. If it is constructed of metal components - be of low reflective, factory pre-coloured materials.</p>

Development type	Performance criteria	Acceptable solutions
Secondary dwellings	<ol style="list-style-type: none"> 1. The secondary dwelling complements and harmonises with the principal dwelling on the site and the positive elements of the streetscape. 2. The secondary dwelling is compatible with the scale and bulk of desired residential development character. 3. Ensure adequate amenity for both the secondary dwelling and principal dwelling. 4. Ensure adequate amenity for surrounding properties. 	<ol style="list-style-type: none"> 1. Secondary dwellings comply with all acceptable solutions under this Section 3.02 (as for the principal dwelling), other than: <ol style="list-style-type: none"> a) Floor space - in addition to any floor space ratio controls (as per section 3.02.01 Density), the total floor area of the secondary dwelling must be in accordance with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 or Clause 5.4(9) of the Newcastle LEP 2012. b) Street frontage appearance <ol style="list-style-type: none"> i) The front setback is per Section 3.02.03 other than if the secondary dwelling is located on a corner lot and addresses the secondary road, the minimum front setback to the secondary dwelling, from the secondary road frontage, is 2m. ii) If the secondary dwelling addresses a road frontage then there is a window of a habitable room that is at least 1m² in area facing the road. c) Private open space <ol style="list-style-type: none"> i) The secondary dwelling must maintain a principle area of private open space* for the principal dwelling. ii) The secondary dwelling must have direct access to a principal area of private open space*, which can be shared with the principal dwelling. iii) The principal area of private open space is not located within the front setback to the primary road. <p>*Principal area of private open space – a 3m x 4m level area of private open space directly accessible from the main living area of the dwelling.</p> d) Car parking <ol style="list-style-type: none"> i) No additional parking for the secondary dwelling is required. ii) Parking for the principal dwelling is provided as per Section 3.02.10 Car parking and vehicular access.

Development type	Performance criteria	Acceptable solutions
Swimming pools	<ol style="list-style-type: none"> 1. Swimming pools are not visually intrusive on the street scape. 2. Swimming pools are designed, located and operated in a safe manner in accordance with the relevant standards. 3. Pool equipment is designed and located to minimise the impact of noise. 	<ol style="list-style-type: none"> 1. The swimming pool is located either behind the setback area from a primary road, or in the rear yard. 2. The swimming pool water line must have a setback of at least 1m from a side or rear boundary. 3. Despite subclauses (1) and (2), if the swimming pool is being constructed in a heritage conservation area or draft heritage conservation area, the swimming pool must be located: <ol style="list-style-type: none"> a) behind the rear most building line of the dwelling house, and b) no closer to each side boundary than the dwelling house. 4. Decking around a swimming pool must not be more than 600mm above ground level (existing). 5. Coping around a swimming pool must not be more than: <ol style="list-style-type: none"> a) 1.4m above ground level (existing), or b) 300mm wide if the coping is more than 600mm above ground level (existing). 6. The pump is housed in an enclosure that is soundproofed.

Figure 12: A 2m x 2.5m splay at the driveway and property boundary to avoid obstructions to visibility.

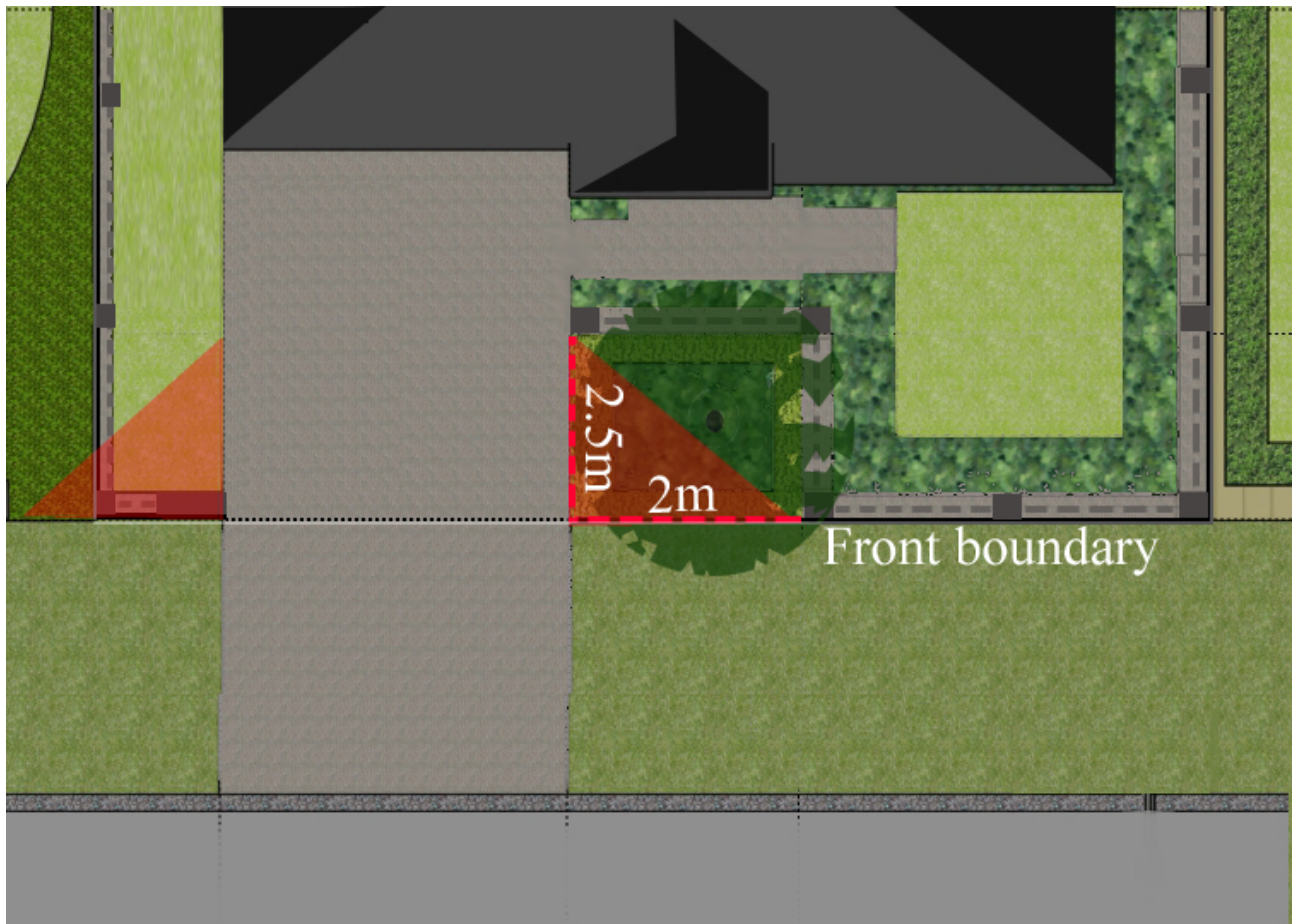


Figure 13: An example of a 1.8m transparent fence with landscaping complying with the driveway splay.

